10-15-82
Vol. 47 No. 200
Pages 46067-46244

federal register

Friday
October 15, 1982

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Personnel Management Office

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Immigration and Naturalization Service

Animal Drugs
Food and Drug Administration

Community Facilities
Farmers Home Administration

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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.

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

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Marketing Agreements
Agricultural Marketing Service

Medical Devices
Food and Drug Administration

Oil and Gas Exploration
Minerals Management Service

Radio Broadcasting
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Recordkeeping and Reporting Requirements
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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 930

Programs for Specific Positions and Examinations: Administrative Law Judges

AGENCY: Office of Personnel Management (OPM).

ACTION: Final rulemaking.

SUMMARY: OPM is clarifying by regulation the practice which was adopted subsequent to the Civil Service Reform Act to provide a mechanism within OPM by which an applicant for an administrative law judge register who fails to obtain a sufficient numerical rating to attain eligible status may appeal a determination of ineligibility.

EFFECTIVE DATE: November 15, 1982.

FOR FURTHER INFORMATION CONTACT: Judge Marvin H. Morse, 202-632-4638.

SUPPLEMENTARY INFORMATION: On January 29, 1982, OPM published a proposed regulation (47 FR 4277) to make clear the practice of internal appeals on the part of applicants for the administrative law judge registers. Subsequent to enactment of the Civil Service Reform Act, OPM selected a methodology for internal appeals from the actions of the Office of Administrative Law Judges arising out of applications for an administrative law judge register. That methodology is routinely available to failed applicants who are advised upon notification of ineligibility of the opportunity to perfect timely administrative appeals. This regulation confirms the availability of that appellate opportunity. The proposed regulation provided a 60-day period for public comment. No comment was received.

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 significant economic impact on a substantial number of small entities because it involves only individuals who are applicants for selection for the administrative law judge registers.

List of Subjects in 5 CFR Part 930

Government employees, Administrative practice and procedure.

Office of Personnel Management.

Donald J. Devine,
Director.

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Accordingly, OPM is revising § 930.203(a) of Title 5 of the Code of Federal Regulations to read as follows:

§ 930.203 Appointment

(a) Eligible rating. An applicant for an administrative law judge position who meets the minimum requirements for entrance to the examination and attains a numerical rating determined by OPM as sufficient to produce an adequate register is eligible for appointment. An applicant who obtains an ineligible rating or an applicant who is dissatisfied with his or her final rating may appeal the rating to the Administrative Law Judge Rating Appeals Panel, Office of Personnel Management, Washington, D.C. 20415, within 30 days from the date of final action by the Office of Administrative Law Judges, or such later time as may be allowed by the Panel.

* * * * *

(5 U.S.C. 1305, 3105)

[FR Doc. 82-28341 Filed 10-14-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 55, 56, 59, and 70

Increase in Fees and Charges; and Miscellaneous Other Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The charges for the Federal voluntary egg products inspection; egg, poultry, and rabbit grading; and laboratory services and the Federal mandatory egg products inspection service overtime, holiday, and appeal rates are changed to reflect increased costs associated with these programs. These amendments are being implemented on an interim basis without a prior proposal because of the Agency's need to increase these rates and charges to cover increased costs of these services. Also, the interim final rule is being published for comment as a means of providing full public participation in the rulemaking process prior to promulgation of the final rule. In addition, several miscellaneous amendments, which entail no substantive changes, are made for clarity or to correct obsolete or erroneous citations.

DATES: Interim final rule effective November 1, 1982; comments must be received on or before November 15, 1982.

ADDRESS: Written comments may be mailed to D. M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944, South Agriculture Building, Washington, D.C. 20250. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Assistant to the Director, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3938, South Agriculture Building, Washington, D.C. 20250, (202) 447-3271.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

An initial determination has been made that this interim final rule is not a

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

This regulation has been reviewed for cost effectiveness under U.S. Department of Agriculture (USDA) Secretary's Memorandum 1512-1 implementing Executive Order 12291. It increases fees and charges to cover escalating costs of providing Federal voluntary grading, inspection, and laboratory services and Federal mandatory egg products inspection overtime, holiday, and appeal services. Federal laws require that users pay for these services. It is anticipated that these increases will not have a significant economic effect on producers, packers, and consumers. Alternatively, the Agency could have requested appropriations to subsidize voluntary programs and denied overtime and holiday egg products inspection service. However, such actions would require a change in the intent of these laws, would increase the Federal Budget, and would not adhere to the President's economic recovery plan. Furthermore, any denial or disruption of grading/inspection services due to inadequate fees and charges could result in adverse impacts on the orderly marketing of poultry, rabbits, eggs, and egg products and on the quality of products available to consumers.

Effect on Small Entities

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, as defined by the Regulatory Flexibility Act, because the fees and charges merely reflect, on a cost-per-unit-graded/inspected basis, a minimal increase in the costs currently borne by those entities utilizing the services, and because competitive effects are offset under the major voluntary programs (resident shell egg and poultry grading) through administrative charges based on the volume of product handled; i.e., the cost to users increases in proportion to increased volume.

Comments

Interested persons are invited to submit written comments concerning these interim final amendments. Comments must be sent in duplicate to the Standardization Branch and should bear a reference to the date and page of this issue of the **Federal Register.** Comments submitted pursuant to this document will be made available for public inspection in the Washington, D.C., Standardization Branch during regular business hours.

Background

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing Federal voluntary egg products inspection; egg, poultry, and rabbit grading; and laboratory services. The Egg Products Inspection Act requires that the cost for overtime inspection and holiday inspection be borne by the user of the service. The fees for these services are determined by the grader's or inspector's salary and fringe, cost of supervision, travel, and other overhead and administrative costs.

Since last year's nonresident program fee increase, which was based primarily on a shift in the grade level or pay scale of the graders performing service on a nonresident or lot basis to a higher level and the October 1981 pay increase, program costs have continued to rise. Federal employees recently received a 4.0-percent increase in conformity with the Federal Pay Comparability Act of 1970. Salaries of federally-licensed State employees have increased approximately 7 percent. Also, leave liability has increased by about 2 percent. Overall, the fee for nonresident service on an hourly basis increased about 9 percent.

Costs have increased also for the resident shell egg and poultry grading programs. The hourly rate charged for graders under the resident grading programs does not cover costs of supervision and other overhead and administrative expenses. These costs are covered by an administrative service charge assessed on each case of shell eggs and each pound of poultry handled in plants using the service. In 1981, these rates were established at $.020 per case of shell eggs and $.00020 per pound of poultry. Since that time, supervisory salaries have increased 4 percent. Supplies and other costs associated with overhead and administration have also increased in the past year. Moreover, appropriated funding previously used to offset a portion of the overhead costs is being eliminated in fiscal year 1983. This cut in funding represents an 8-percent loss in revenue which heretofore has covered a portion of the overhead costs. Additionally, the administrative service charge rate must be adjusted to cover only 12 billing periods per year as opposed to the previously used 13 billing periods per year. This change is being implemented in accordance with the USDA National Finance Center's revised billing and collection system effective April 1, 1982. In effect, the former 28-day billing cycle is changed to a calendar month billing cycle. Overall, the total annual cost is not affected, but the rate must be increased about 8 percent on a monthly basis to produce the revenue provided by the former 13th billing period. To compensate for these cost increases and other changes, the administrative service charges are being changed to $.024 per case of shell eggs and $.00024 per pound of poultry. Presently, these administrative charges are set at a minimum payment of $100 per billing period and a maximum of $1,000 for each official plant. These figures will be changed to $120 and $1,200, respectively.

In view of the situations described above, the hourly rate for nonresident voluntary grading service is increased from $18.96 to $20.76. Likewise, the rate for such services performed on Saturdays, Sundays, or holidays is increased from $18.96 each to $21.64. The hourly rate for voluntary appeal gradings or inspections is increased from $16.08 to $17.32. The hourly rate for laboratory analyses for other than individual tests is increased from $22.76 to $24.24, and the fees for individual tests are increased approximately 7 percent. The hourly rate for mandatory overtime inspection service is increased from $16.52 to $16.56. The hourly rate for certain mandatory appeal egg product inspections is increased from $16.08 to $17.32. The holiday hourly rate for mandatory inspection is increased from $13.08 to $14.20. Administrative charges for the resident voluntary rabbit grading and egg products inspection programs, and nonresident voluntary continuous poultry and egg grading programs will continue to be based on 25 percent of the grader's or inspector's total salary costs. The minimum charge per billing period for these programs is increased from $100 to $120 per official plant.

Several miscellaneous changes of an editorial or housekeeping nature are being made to update or correct various sections in 7 CFR Parts 55, 56, 59, and 70. These changes are nonsubstantive and made to correct obsolete and erroneous references and to clarify the regulations.

The Division name is changed in each of the four Parts from the "Poultry and Dairy Quality Division" to the "Poultry Division" as a result of USDA Secretary's Memorandum 1000-1 dated June 17, 1981, announcing the reorganization of the Department. The "Note" indicating that the reporting and recordkeeping requirements contained in these regulations had been approved by the Office of Management and Budget (OMB) under the Federal Reports Act of 1942 is removed from each of these four Parts because it is obsolete since this statute is no longer in existence. The reporting and recordkeeping requirements in these regulations are now submitted to OMB under the Paperwork Reduction Act of 1980 for approval. The applicable OMB approval number and OMB statement will be printed on the first page of the regulations reprinted by the Division for distribution.

Sections regarding fees for additional copies of certificates were removed from Parts 55, 56, and 70, January 25, 1981. However, references to the removed sections in each Part were overlooked. The oversights are corrected by eliminating the obsolete reference in each Part. In addition, an incorrect cross-reference to another subsection is corrected in each of §§ 55.150(e) and 56.65(b). Section 70.61 is amended to better clarify the information to be furnished to the grader and represents no change in the requirements that have been enforced for many years.

Effective October 1, 1981, the U.S. Procurement Grades were eliminated from the U.S. shell egg standards and grades in Part 56. Two references to procurement grades were not removed. These two references are removed. The phrase "smashed, or broken so that contents are leaking," is removed from the definition of Loss in § 56.212(a) to eliminate any possible ambiguity as whether to classify such eggs as Leakers or Loss. The definition of Leaker adequately includes these types of eggs and provides a basis for uniform interpretation.

The Agency is implementing these fee amendments effective November 1, 1982, because increased revenues are urgently needed to cover the costs of services, and because a determination of the level of charges could not be completed until the salary increase had been enacted. The miscellaneous amendments will likewise be effective November 1, 1982, since they provide helpful clarifications in the regulations and impose no new requirements. Therefore, it has been determined that the following amendments must be adopted immediately on an interim final basis. A final rule will be promulgated in the **Federal Register** after evaluation of comments received in reponse to this notice. Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim final rule is impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this interim final rule effective less than 30 days after publication of this document in the **Federal Register.**

Information Collection Requirements and Recordkeeping

Information collection requirements and recordkeeping provisions contained in 7 CFR Parts 56, 59, and 70 have been approved by the OMB under the provisions of 44 U.S.C. Chapter 35 and 7 CFR Part 56 has been assigned OMB No. 0581-0128; and 7 CFR Part 59 has been assigned OMB Nos. 0581-0113 and 0581-0114; and 7 CFR Part 70 has been assigned OMB No. 0581-0127. Information collection requirements contained in 7 CFR Part 55 do not require approval because this regulation has less than 10 respondents.

List of Subjects

7 CFR Part 55

Egg products, Voluntary inspection service.

7 CFR Part 56

Shell eggs, Voluntary grading service.

7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

7 CFR Part 70

Poultry, Poultry products, Rabbit products, Voluntary grading service.

Accordingly, under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and the Egg Products Inpection Act (21 U.S.C. 1031-1056), the U.S. Department of Agriculture hereby amends the Regulations Governing the Voluntary Inpection of Egg Products and Grading (7 CFR Part 55); the Regulations Governing the Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 56); the Regulations Governing the Inpection of Eggs and Egg Products (7 CFR Part 59); and the Regulations Governing the Voluntary Grading of Poultry Products and Rabbit Products and United States Classes, Standards, and Grades (7 CFR Part 70) as set forth below:

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

§§ 55.2 and 55.560 [Amended]

1. Part 55 is amended by removing all references to the words "Poultry and Dairy Quality Division" and inserting, in their place, the words "Poultry Division" in the following places:

(a) § 55.2, and

(b) § 55.560(a)(2)(vi).

§ 55.150 [Amended]

2. Section 55.150(e) is amended by removing "§ 55.140(a)" and inserting in its place, "§ 55.140".

§ 55.380 [Amended]

3. Section 55.380 is amended by removing the last sentence of the section.

4. Section 55.510 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 55.510 Fees and charges for services other than on a continuous resident basis.

* * * * *

(b) Fees for product inspection and sampling for laboratory analysis will be based on the time required to perform the services. The hourly charge shall be $20.76 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $21.64 per hour. Information on legal holidays is available from the Supervisor.

(d) The cost of an appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision shall be borne by the appellant at an hourly rate of $17.32 for time spent performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

5. Section 55.550 is revised to read as follows:

§ 55.550 Laboratory analysis fees.

(a) The fees listed for the following individual laboratory analyses cover costs involved in the preparation and analysis of the product, certificate issuance, and personnel and overhead costs other than the expenses listed in § 55.530.

	Fee
Solids	$12.12
Fat	24.24
Bacteriological plate count	12.12
Bacteriological direct count	24.24
Coliforms	18.18
E. Coli (presumptive)	18.18
Yeast and mold count	12.12
Sugar	30.30
Salt	30.30
Color:	
NEPA	18.18
B-Carotene	24.24
Whipping test	12.12
Whipping test plus bleeding	18.18
Fat film test	30.30
Oxygen	12.12
Glucose:	
Quantitative	24.24
Qualitative	18.18
Palatability and odor:	
First sample	12.12
Each additional sample	6.06
Staphylococcus	36.36
Salmonella:[1]	
Step 1	24.24
Step 2	12.12
Step 3	24.24

[1] Salmonella test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple-sugar-iron and lysine-iron agars; Step 3—confirmatory test through biochemicals.

(b) The fee charge for any laboratory analysis not listed in paragraph (a) of this section, or for any other applicable services rendered in the laboratory, shall be based on the time required to perform such analysis or render such service. The hourly rate shall be $24.24.

6. Section 55.560 is amended by revising paragraph (a)(3) to read as follows:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) * * *

(3) An administrative service charge equal to 25 percent of the grader's or inspector's total salary costs. A minimum charge of $120 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

§ 55.820 [Amended]

7. Section 55.820 is amended by removing the "Note" and its text following the table of the section.

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

§§ 56.1, 56.52, and 56.54 [Amended]

8. Part 56 is amended by removing all references to the words "Poultry and Dairy Quality Division" and inserting, in their place, the words "Poultry Division" in the following places:

(a) § 56.1;

(b) § 56.52 (a)(2)(vi); and

(c) § 56.54 (a)(1)(vi).

9. Section 56.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 56.46 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $20.76 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $21.64 per hour. Information on legal holidays is available from the Supervisor.

10. Section 56.47 is revised to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $17.32 for time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

11. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $.024, except that the minimum charge per billing period shall be $120 and the maximum charge shall be $1,200. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

12. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $120 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

§ 56.57 [Amended]

13. Section 56.57 is amended by removing the last sentence of the section.

§ 56.65 [Amended]

14. Section 56.65(b) is amended by removing "§ 56.4(c)" and inserting, in its place, "§ 56.4(b)".

§ 56.76 [Amended]

15. Section 56.76(f)(3) is amended by removing the words "or procurement" from the text of the paragraph.

§ 56.212 [Amended]

16. Section 56.212(a) is amended by removing the phrase "smashed, or broken so that contents are leaking," from the text of the paragraph.

17. Part 56 is amended by removing the center heading "UNITED STATES PROCUREMENT GRADES AND WEIGHT CLASSES FOR SHELL EGGS" which follows § 56.218 and precedes § 56.221.

§ 56.228 [Amended]

18. Section 56.228 is amended by removing the "Note" and its text following the text of the section.

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

§§ 59.5, 59.920, and 59.930 [Amended]

19. Part 59 is amended by removing all references to the words "Poultry and Dairy Quality Division" and inserting, in their place, the words "Poultry Division" in the following places:

(a) 59.5;

(b) 59.920; and

(c) 59.930(c).

20. Section 59.126 is amended by revising to read as follows:

§ 59.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $16.56 to cover the cost thereof.

21. Section 59.128 is amended by revising paragraph (a) to read as follows:

§ 59.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Service therefor at an hourly rate of $14.20 to cover the cost thereof.

* * * * *

22. Section 59.370 is amended by revising paragraph (b) to read as follows:

§ 59.370 Cost of appeals.

* * * * *

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of $17.32, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these regulations have not been complied with.

§ 59.970 [Amended]

23. Section 59.970 is amended by removing the "Note" and its text following the text of the section.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

§§ 70.1, 70.73, 70.76, and 70.77 [Amended]

24. Part 70 is amended by removing all references to the words "Poultry and Dairy Quality Division" and inserting, in their place, the words "Poultry Division" in the following places:

(a) § 70.1;

(b) § 70.73;

(c) § 70.76(a)(1)(vi); and

(d) § 70.77(a)(2)(vi).

25. Section 70.61 is revised to read as follows:

§ 70.61 Information to be furnished to graders.

The applicant for grading service shall furnish to the grader rendering such service such information as may be required for the purposes of this part.

26. Section 70.71 is amended by revising paragraphs (b) and (c) to read as follows:

§ 70.71 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $20.76 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $21.64 per hour. Information on legal holidays is available from the Supervisor.

27. Section 70.72 is amended by revising to read as follows:

§ 70.72 Fees for appeal grading, laboratory analysis, or examination or review of a grader's decision.

The costs of an appeal grading, laboratory analysis, or examination or review of a grader's decision will be borne by the appellant at an hourly rate of $17.32 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, laboratory analysis, or examination or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

28. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $120 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

29. Section 70.77 is amended by revising paragraphs (a)(4)(i) and (a)(5) to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) * * *

(i) Total pounds per billing period multiplied by $.00024, except that the minimum charge per billing period shall be $120 and the maximum charge shall be $1,200. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $120 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

§ 70.91 [Amended]

30. Section 70.91(c) is amended by removing the last sentence of the paragraph.

§ 70.332 [Amended]

31. Section 70.332 is amended by removing the "Note" and its text following the text of the section.

(Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*); Egg Products Inspection Act (21 U.S.C. 1031–1056))

Done at Washington, D.C. on October 7, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 82-28414 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This docket corrects several passages contained in the final Child Care Food Program (CCFP) rulemaking published on August 20, 1982, at 47 FR 36524–36551. The action is necessary to correct typographical errors.

FOR FURTHER INFORMATION CONTACT: Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3888. Accordingly, the Food and Nutrition Service is correcting 7 CFR Part 226 as follows:

PART 226—CHILD CARE FOOD PROGRAM

1. On page 36528, correcting § 226.2 by changing "health" to "healthy" in the definition of "Infant formula" to read as follows:

§226.2 Definitions.

* * * * *

"Infant formula" means any iron-fortified infant formula, intended for dietary use as a sole source of food for normal, healthy infants served in liquid state at manufacturer's recommended dilution.

* * * * *

2. On page 36533, correcting § 226.6(h)(1) by inserting a hyphen between the words "outside" and "school" to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(h) *Standard Contract.* * * *

(1) The institution shall provide the food service management company with a list of the State agency approved child care centers, day care homes, and outside-school-hours care centers to be furnished meals by the food service management company, and the number of meals, by type, to be delivered to each location;

* * * * *

3. On page 36534, correcting § 226.6(k) by changing "family-sized" to "family-size" in the third sentence to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(k) *Program assistance.* * * * Program reviews shall assess institutional compliance with meal requirements, family-size and income documentation where applicable, financial management standards, and non-discrimination regulations. * * *

* * * * *

4. On page 36537, correcting § 226.12(a)(3)(ii) by changing "50" to "150" to read as follows:

§ 226.12 Administrative payments to sponsoring organizations for day care homes.

(a) * * *

(3) * * *

(ii) Next 150 day care homes by 32 dollars;

* * * * *

5. On page 36538, correcting § 226.14(a)(3) by adding the word "calendar" between "60" and "days" to read as follows:

§ 226.14 Claims against institutions.

(a) * * *

(3) if, after 60 calendar days, the institution fails to remit full payment or agree to a satisfactory repayment schedule, the State agency shall refer the claim against the institution to appropriate State or Federal authorities for pursuit of legal remedies.

* * * * *

6. On page 36538, correcting § 226.15(b)(6) by changing "then" to "than" in the first sentence to read as follows:

§ 226.15 Institution provisions.

* * * * *

(b) *Applications.* * * *

(6) For each proprietary Title XX center, documentation that it provides nonresidential day care services for which it receives compensation under Title XX of the Social Security Act and certification that not less than 25 percent of the children enrolled during the most recent calendar month were Title XX beneficiaries. * * *

* * * * *

7. On page 36539, correcting § 226.16(d)(4)(i) by changing "elapses" to "elapse" to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(d) * * *

(4) * * *

(i) Three times each year at each child care center, provided at least one review is made during each child care center's first six weeks of Program operations and not more than six months elapse between reviews;

* * * * *

8. On page 36544, correcting § 226.20(c)(2) by inserting a reference to footnote 2 under "Milk, fluid", in the first column of the Lunch/Supper meal pattern to read as follows:

§ 226.20 Requirements for meals.

* * * * *

(c) * * *

(2) * * *

Milk, fluid, ½ cup [2], ¾ cup, 1 cup.

* * * * *

9. On page 36545, correcting § 226.20(c)(3) by inserting a reference to footnote 1 in the third column heading ("Age 6 up to 12") for the Supplemental Food meal pattern to read as follows:

§ 226.20 Requirements for meals.

* * * * *

(c) * * *

(3) * * *

Food Components—Age 1 up to 3, Age 3 up to 6, Age 6 up to 12[1]

* * * * *

10. On page 36549, correcting § 226.23(e) by changing "Provisions for" to "Provision of" in the seventh sentence to read as follows

§ 226.23 Free and reduced-price meals.

* * * * *

(e) * * *

Provision of these social security numbers is not mandatory; but failure to provide the numbers will result in denial of the application for free or reduced-price benefits. * * *

* * * * *

11. On page 36551, correcting § 226.26(a) by changing the Regional Office designation from "New England" to "Northeast" to read as follows:

§ 226.26 Program information.

* * * * *

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

* * * * *

12. On page 36551, correcting § 226.26(d) by changing "536 South Clark Street, Chicago, IL 60605" to "50 E. Washington Street, Chicago, IL 60602" to read as follows:

§ 226.26 Program information.

* * * * *

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 50 E. Washington Street, Chicago, IL 60602.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 19.558) Authority: Secs. 810 and 820, Pub. L. 97-35, Omnibus Budget Reconciliation Act of 1981; Sec. 2, Pub. L. 95-627, 92 Stat. 3603 (42 U.S.C. 1766); Sec. 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1779)

Dated: October 7, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-28327 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 277

Food Stamp Program; Payment of Certain Administrative Costs of State Agencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in a final rule to amend a Food Stamp Program Regulations, entitled "Payment

of Certain Administrative Costs of State Agencies."

FOR FURTHER INFORMATION CONTACT: Herbert A. Scurlock, Director, Federal Operations Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia 22302, (703) 756-3485.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-2554 appearing at page 41095, in the issue of Friday, September 17, 1982, make the following change:

On Page 41095, first column, in the 11th line, under the heading of "SUMMARY", the term "proposed rule" should read "final rule".

Dated: October 7, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-28068 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 381; Lemon Reg. 380, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period October 17-23, 1982, and increases the quantity of lemons that may be shipped during the period October 10-16, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective October 17, 1982, and the amendment is effective for the period October 10-16, 1982.

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

SUPPLEMENTARY INFORMATION: This final 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. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

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

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on October 12, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is moderate.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.681 is added as follows:

§ 910.681 Lemon Regulation 381.

The quantity of lemons grown in California and Arizona which may be handled during the period October 17, 1982, through October 23, 1982, is established at 230,000 cartons.

2. Section 910.680, Lemon Regulation 380 (47 FR 44539), is revised to read as follows:

§ 910.680 Lemon Regulation 380.

The quantity of lemons grown in California and Arizona which may be handled during the period October 10, 1982, through October 16, 1982, is established at 230,437 cartons.

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

Dated: October 14, 1982

D. S. Kuryloski,

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

[FR 82-28611 Filed 10-14-82; 11:46 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Petitions for Aliens Accompanying Nonimmigrant Aliens of Distinguished Merit and Ability

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule clarifies the admission requirements for aliens seeking to enter the United States for the purpose of accompanying nonimmigrant entertainers. The rule is needed to ensure that only those persons who are necessary to the successful performance by an alien of distinguished merit and ability are included in the same classification.

EFFECTIVE DATE: November 11, 1982.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-3048.

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone (202) 633-3946.

SUPPLEMENTARY INFORMATION: On July 9, 1982, the Service published a proposed rule in the **Federal Register** at 47 FR 29851 to give interested persons the opportunity to comment upon the rule to clarify the admission requirements for those nonimmigrant aliens who accompany aliens of

distinguished merit and ability to the United States. The rule proposed that an entertainer's successful performance must be dependent upon the accompanying alien's participation in the performance because of their unique qualities, experience, or familiarity with the performance.

The comment period for the proposed rule closed August 9, 1982. The Service received no comments from the public or other interested persons; therefore, the final is published as it was originally proposed.

There are numerous instances where a support staff is essential to the successful performance by a distinguished entertainer, such as: manager and trainers of an internationally famous boxer, musical accompanist to a celebrated soloist, and assistants to a renowned theatrical magician, among others. The Service proposes to continue to recognize these individuals as accompanying aliens and grant admission under H-1 provided the need to the entertainer for the success of the performance is fully established.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not a have significant impact on a substantial number of small entities. The rule is not major rule as defined in section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Crime, Employment, Passports and Visas.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

In § 214.2, paragraph (h)(2)(v) is revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(v) *Accompanying aliens.* Managers, trainers, musical accompanists, and other persons determined by the district director to be necessary for successful performance by the beneficiary of a petition approved for classification under section 101(a)(15)(H)(i) of the Act may also be accorded such classification if included in the same or a separate petition. The petitioner must establish that accompanying aliens possess unique qualities, experience, or knowledge of the performance as to render success of the performance dependent upon their participation.

* * * * *

(Secs. 103 and 214, Immigration and Nationality Act, as amended; 8 U.S.C. 1103 and 1184)

Dated: October 1, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 82-28387 Filed 10-14-82; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Docket No. R-0203]

Equal Credit Opportunity; Final Board Interpretations; Consideration of Income and Disclosure of Reasons for Adverse Action

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Board interpretations.

SUMMARY: The Board adopted two interpretations of Regulation B, Equal Credit Opportunity. The first interpretation discusses how users of judgmental and credit scoring systems must treat income derived from alimony, child support, separate maintenance, part-time employment, retirement benefits or public assistance to comply with the regulation's requirement that creditors not "discount or exclude from consideration" such income. The second interpretation explains how creditors should select and disclose the principal reason or reasons for adverse action. These interpretations derive from questions that have been raised about the application of Regulation B to credit scoring systems, but the basic principles apply to judgmental systems as well.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Lucy Griffin, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: (1) *Introduction.* In response to requests for clarification on how certain provisions of Regulation B (12 CFR Part 202) apply to the operation of numerical credit scoring system,* the Board asked for public comment (44 FR 23865, April 23, 1979) on four questions about Regulation B's application to credit scoring systems:

- May a credit scoring system score the fact that an applicant has more than one job or multiple sources of income, and may it score secondary income differently from primary income?
- How must a scoring system consider the amount of an applicant's income derived from part-time employment, pension, or alimony?
- How must a creditor using a scoring system select the specific reasons for adverse action?
- Under what circumstances may a creditor employing a credit scoring system use the reasons for adverse action contained in Regulation B's model statement?

The Board received almost 300 written comments from members of Congress, industry, academics, and others. The comments expressed a wide diversity of views about how Regulation B's rules should apply to credit scoring systems. The multiplicity of viewpoints and the underlying technical complexity of the questions raised in the comment process led to a thorough reconsideration of the issues and the policy options available. Based on that review, the Board issued for public comment (45 FR 56818, August 26, 1980) two proposed interpretations. One interpretation addressed several issues concerning consideration of income and income reliability. The second set forth several principles governing the selection and disclosure of adverse action. Both proposed interpretations affirmed the Board's conclusion, based upon an analysis of the comments and the Equal Credit Opportunity Act, that the rules in Regulation B apply to all creditors, whether they evaluate creditworthiness judgmentally or through a credit scoring system.

The Board again received approximately 300 written comments on these proposals from members of Congress, federal and state agencies, industry, consumers, and academics. Generally, creditors (retailers, oil companies, financial institutions, and trade associations) claimed that a properly designed credit scoring system is an accurate, objective mechanism for determining creditworthiness. They suggested that to preserve the empirical and statistical character of such a

* Basically, credit scoring is the use of statistical techniques to assign points or weights to various applicant characteristics (e.g., income, credit history) or to identify relationships between them in order to predict the likelihood that the applicant will satisfactorily repay the credit. In Regulation B, an empirically and statistically derived credit scoring system is contrasted with the judgmental evaluation performed by a credit officer or committee; compare the definition of "a demonstrably and statistically sound, empirically derived credit system" in § 202.2(p) with the definition of "judgmental system of evaluating applicants" in § 202.2(t).

system, a creditor should be allowed wide latitude to include in or exclude from a particular system the amount and sources of an applicant's income depending on whether those factors were related in a statistically significant way to creditworthiness as established by the creditor developing the system. They also advocated that wide latitude be given to determining the most appropriate way for selecting and disclosing the principal reason or reasons for an adverse credit decision.

Consumer commenters (including several members of Congress and a number of individual consumers) generally were concerned that the Board not reduce or eliminate what they perceived as the basic protections already afforded by the law. They were opposed to allowing creditors the degree of flexibility sought by the industry because of the belief that such flexibility might be used to mask illegally discriminatory practices.

Based on a review of the comments and a renewed analysis of the issues, in May 1982 the Board stated general endorsement for the two revised interpretations but issued them for further comment (47 FR 23738, June 1, 1982) with respect to any technical problems that creditors might encounter in complying with them.

The Board has received almost 80 written comments on these proposals from federal and state agencies, industry, and consumers. Consumers and creditors supported most of the changes in the proposed interpretations. Consumers observed that the interpretations maintain fundamental consumer protections without unduly burdening creditors. Generally, creditors requested a delayed effective date of six months in which to adapt existing credit scoring systems to the requirements of the interpretations. Most commenters requested that the interpretations describe more than one method for selecting reasons for adverse action.

The first interpretation (§ 202.601) addresses several issues concerning consideration of income and income reliability. The interpretation clarifies that Regulation B applies to credit scoring systems as well as to judgmental systems. The interpretation also advises that income need not be fully considered on an individual basis and should not be assigned a weight based on aggregate statistics.

The second interpretation (§ 202.901) sets forth several principles governing the selection and disclosure of reasons for adverse action. The interpretation advises creditors that the process used to select specific reasons for adverse action must identify the factors that were most significant in the applicant's failure to achieve a passing score in a credit scoring system. The interpretation also advises creditors that the reasons must be taken from those factors actually considered for that applicant. The interpretation has been modified to include a second acceptable method for selecting reasons for adverse action, based on the average scores for all applicants. The interpretation also explains that other methods that produce substantially similar results, i.e., selecting those factors for which the applicant fell furthest below a norm, are acceptable. Finally, the interpretation advises creditors on proper use of the model form for disclosing reasons for adverse action.

(2) *Regulatory Flexibility Analysis.* The two interpretations adopted by the Board clarify creditor procedures with respect to several aspects of Regulation B, Equal Credit Opportunity, dealing with treatment of income and selection and disclosure of reasons for adverse action. The economic impact of either interpretation is unlikely to be large. Since the actions taken are interpretations rather than regulations only those creditors who currently use procedures that are inconsistent with the interpretations will be forced to modify their credit processing procedures. Indications from comments received by the Board are that most of these cases will arise from creditors having taken too narrow an interpretation of the implications of Regulation B, particularly with respect to treatment of protected income. The interpretations advise creditors how they can use several different procedures for which guidance had been requested by a number of creditors. Thus, given these assurances, a number of creditors may modify their credit screening procedures.

The specific impact of the first interpretation will be focused on creditors currently using credit scoring systems which treat protected income in a manner that is inconsistent with the interpretation. These creditors will need to modify their systems. This will entail the probable expense of new statistical analysis, the retraining of those making loan evaluations, and possibly changes in application forms. One commenter stated that this could cost a creditor as much as $50,000. However, if such modifications are made as part of normal periodic updates of credit systems, these costs may be minimized. If creditors, particularly those using credit scoring vendors, were required to make such changes immediately, costs might be more substantial. Most commenters to the Board have indicated, however, that a six months delayed effective date should provide adequate time to modify systems in a cost efficient way.

The economic impact of the second interpretation, governing notice of adverse action, is likely to be more far reaching. In a 1981 Federal Reserve Board survey,[1] over one-half of the surveyed financial institutions indicated a desire to modify the notification of adverse action. Furthermore, they indicated that the largest recurring cost associated with Regulation B was the cost of providing a written notice of adverse action. Written comments received by the Board have also indicated the need for additional guidance both as to methods of selecting reasons for adverse action and for the design of adverse action forms. The second interpretation speaks directly to both these concerns. The interpretation explicitly sanctions two methods of selecting reasons for adverse action which in most cases can be done mechanically and need not require constant updating. In addition, it authorizes any other method which produces substantially similar results. The information needed to implement the methods sanctioned by the interpretation should already be available to creditors using credit scoring systems. By clarifying use of the Board's sample form, the interpretation is likely to require some expense by creditors who will have to design new forms. Creditors using systems for which use of the sample form is not appropriate will have to design and distribute new forms and discard old forms. As a temporary measure creditors may have to manually modify old forms before new ones can be developed.

Smaller creditors are unlikely to suffer significant costs from either interpretation. The largest impact is likely to be felt by creditors with large, centrally-based, credit scoring systems. Smaller institutions are much more likely to use judgmental systems which can be modified with very little cost.

To offset some of the costs, the clarifications provided by the interpretations will probably help both applicants and creditors. With more precise instructions on the proper treatment of protected income, creditors who may previously have been reluctant to use income in their credit evaluation process may now do so. By providing more explicit guidance as to the

[1] *Survey of Compliance Costs and Benefits of Consumer Protection Regulations*, Federal Reserve Board, 1981.

selection of reasons for adverse action, the interpretations are likley to result in rejected loan applicants receiving more useful information.

List of Subjects in 12 CFR Part 202

Banks, banking, Civil rights, Consumer protection, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Religious discrimination, Sex discrimination, Women.

PART 202—[AMENDED]

Regulatory Text. Pursuant to the authority granted in § 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(a)), the Board adopts the following two interpretations of Regulation B (12 CFR Part 202) to read as follows:

§ 202.601 Consideration of income.

(a) Regulation B prohibits creditors from discounting or excluding the income of an applicant (or the spouse of the applicant) from consideration because of a prohibited basis or because the income is derived from alimony, child support, separate maintenance, part-time employment, retirement benefits or public assistance ("protected income").[1] A creditor may consider, however, the probability of any income continuing in evaluating an applicant's credit worthiness, and may consider the extent to which alimony, child support or separate maintenance is likely to be consistently made. Regulation B applies equally to all methods of credit evaluation—whether performed judgmentally or through the use of a credit scoring system.[2]

(b) Creditors need not consider income at all. However, creditors that do consider income should consider the amount of income as required in § 202.6(b)(5). A credit scoring system [3] will not be deprived of its status as a "demonstrably and statistically sound, empirically derived" credit scoring system because it aggregates income (including a type of income which, by itself, would not be selected as a predictive characteristic).

(c) Creditors have asked whether evaluating or deriving a point score for certain types of income (such as Social Security and alimony) during the development of the system constitutes "consideration" of that income for purposes of the regulation, enabling the creditor to discount or exclude such income based upon these aggregate statistics. In the Board's view, the statute requires that evaluation of protected income be made on an individual basis, and not based upon aggregate statistical relationships such as those underlying credit scoring models. Thus, creditors may not use blanket rules which automatically deem a certain type of protected income to be unreliable and therefore a predictor of adverse credit performance. Nor may the average reliability of a particular type of protected income be used to predict the reliability of the same types of income for an individual applicant.

(d) For creditors that do consider income, there are several acceptable methods under § 202.6(b)(5) which creditors using credit scoring systems may use for this purpose. First, creditors can score the amount of all income stated by the applicant without taking steps to evaluate the income. This method could be used in a system which is based on the income the applicant states; the creditor need not actually verify the amount. Second, based on an individual evaluation of each component of the applicant's income, the creditor may score reliable income separately from income that is not reliable. Alternatively, the creditor may include a portion or disregard a portion of income to the extent that it is not reliable, before aggregating and scoring all reliable income. Third, if the creditor does not evaluate all income components, any component of protected income that is not evaluated must be treated as reliable. In considering the separate components of an applicant's income, the creditor may not automatically discount or exclude from consideration any income of a type protected by § 202.6(b)(5).

(e) Creditors have asked whether credit scoring systems may place values on the number of sources from which earned income is received without violating the regulation's prohibition against discounting income. Although creditors may not take into account the number of sources for any applicant of income that is not earned, e.g., retirement income, social security, or alimony, the regulation does not prohibit consideration of the number of earned income sources for an individual applicant. For example, a creditor may take into account the fact that an individual applicant has more than one source of *earned income*—a full-time and a part-time job, or two part-time jobs. Alternatively, a creditor might score an individual applicant's earned income from a secondary source differently than the applicant's earned income from a primary source. Creditors may not, however, treat as an adverse factor the fact that an individual applicant's only source of earned income is derived from a part-time job.

§ 202.901 Disclosure of reasons for adverse action.

(a) The Board has been asked for an interpretation of § 202.9 of Regulation B regarding the selection and disclosure of the reasons for adverse action [1] where a credit scoring system [2] is used, alone or in conjunction with a judgmental evaluation. Although the issue has arisen in the context of credit scoring, as a general principle the provisions of Regulation B apply equally to both judgmental and credit scoring systems of credit evaluation. The reasons for

[1] Section 202.6(b)(5) states in relevant part:

A creditor shall not discount or exclude from consideration the income of an applicant or the spouse of the applicant because of a prohibited basis or because the income is derived from part-time employment, or from an annuity, pension, or other retirement benefit; but a creditor may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness. Where an applicant relies on alimony, child support, or separate maintenance payments in applying for credit, a creditor shall consider such payments as income to the extent that they are likely to be consistently made. Factors that a creditor may consider in determining the likelihood of consistent payments include, but are not limited to, whether the payments are received pursuant to a written agreement or court decree; the length of time that the payments have been received; the regularity of receipt; the availability of procedures to compel payment; and the creditworthiness of the payor * * *.

[2] The only differences in evaluation procedures for the two methods of judging creditworthiness sanctioned by the law relate to consideration of age and receipt of public assistance. (See § 202.6(b)(2)(ii) and (iii).)

[3] For the purposes of this interpretation, "credit scoring system" refers to any mechanical method of making a credit decision that is developed using statistical methods and empirical data.

[1] Section 202.9(a)(2) states in relevant part:

"Any notification given to an applicant against whom adverse action is taken shall be in writing and shall contain * * * a statement of specific reasons for the action taken."

Section 202.9(b)(2) states in relevant part:

"A statement of reasons for adverse action shall be sufficient if it is specific and indicates the principal reason(s) for the adverse action. A creditor may formulate its own statement of reasons in check list or letter form or may use all or a portion of the sample form printed [in this subsection], which, if properly completed, satisfies the requirements of subsection (a)(2)(i). Statements that the adverse action was based on the creditor's internal standards or policies or that the applicant failed to achieve the qualifying score on the creditor's credit scoring system are insufficient."

[2] For the purposes of this interpretation, "credit scoring system" refers to any mechanical method of making a credit decision that is developed using statistical methods and empirical data.

adverse action disclosed under § 202.9 (a)(2) and (b)(2) must relate to factors actually scored or considered by the creditor. The creditor must disclose the specific reason or reasons for the adverse action.

(b) Many credit decision methods contain features that call for automatic adverse action because of one or more negative factors in the applicant's record (such as the applicant's previous bad credit history with that creditor, a declaration of bankruptcy, or the fact that the applicant is a minor) that cannot be offset by other factors. When a creditor takes adverse action because of an automatic factor, the creditor must disclose that specific factor.

(c) If the creditor does not automatically reject the application, and bases the decision on a credit scoring system, the reasons disclosed must relate only to those factors actually scored in the system, not to factors that are not included in the credit scoring system. Similarly, in a judgmental system, the reasons disclosed must relate to the factors in the applicant's record actually reviewed by the person making the decision and must accurately describe the reasons for adverse action. If the credit evaluation system employs both judgmental and credit scoring components, the reasons to be disclosed will be determined by whether the final decision resulted from the judgmental or the scoring system assessment of the application. Thus, if the creditor initially credit scores an application and takes adverse action as a result of that scoring, the reasons for adverse action must relate only to the factors actually scored in the system. If the application passes the credit scoring stage successfully but the creditor then takes adverse action based on the judgmental assessment, one or more of the reasons disclosed must relate to the factors in the applicant's record that were reviewed judgmentally.

(d) The regulation does not require that any one method be used for selecting reasons for the adverse credit decision, nor does it mandate that a specific number of reasons be disclosed. However, disclosure of more than four reasons is not likely to be helpful to the applicant. The Board recognizes that there may be a number of valid methods for selection of reasons for denial which meet the requirements of Regulation B. One method, for example, would be to identify those factors for which the applicant's score fell furthest below the average score for each of those factors achieved by applicants whose total score was at or slightly above the minimum passing score.[3] Another method would be to identify those factors for which the applicant's score fell furthest below the average score for each of those factors achieved by all applicants. These average scores could be developed periodically during the use of the system or during the development of the system. Any other method that produces results substantially similar to either of these methods would be acceptable under the regulation.

(e) Creditors may identify reasons for adverse action by mathematical or manual selection. No factor or factors may be arbitrarily excluded from the pool of factors subject to disclosure. The creditor must disclose reasons actually considered (such as "age of automobile") even if the relationship of that factor to predicting creditworthiness may not be clear to the applicant.

(f) Creditors have also asked about proper use of the sample form set forth in § 202.9(b)(2) when providing reasons for adverse action. The sample form is illustrative and may not be appropriate for all creditors. It was designed to disclose those factors which creditors most commonly consider. Some of the reasons listed on the form could be misleading when compared to the factors actually scored. In such cases, it is improper to complete the form by simply checking the closest identifiable factor listed. For example, a creditor that considers only bank references (and disregards finance company references altogether) should disclose "insufficient bank references" (not "insufficient credit references"). Similarly, a creditor that considers bank references and other credit references as separate factors should treat the two factors separately in disclosing reasons. The creditor should either add those other factors to the form or check "other" and include the appropriate explanation. In providing reasons for adverse action, creditors need not describe how or why a factor adversely affected an applicant. For example, the notice may say "length of residence" rather than "too short a period of residence."

By order of the Board of Governors of the Federal Reserve System, October 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-28357 Filed 10-14-82; 8:45 am]

BILLING CODE 6210-01-M

[3] For example, if a scoring system with a maximum score of 300 points has a cut-off score of 200 points, the creditor could use applicants whose total scores fall between 200 and, for example, 205 points to determine the average score for those factors.

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

In FR Doc. 82-26524 appearing on page 42562 in the issue of Tuesday, September 28, 1982, make the following correction:

On page 42562, in the middle column, in the paragraph describing the change to the acreage description, the cite now reading "§ 271.703(d)(105)(i)" should have read "§ 271.703(d)(108)(i)".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 82F-0131]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Tetrakis[Methylene(3,5-Di-Tert-Butyl-4-Hydroxyhydrocinnamate)]Methane

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane as an antioxidant in lubricants with incidental food contact. This action is based on a petition filed by Ciba-Geigy Corp.

DATES: Effective October 15, 1982; objections by November 15, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 4, 1982 (47 FR 24423), FDA announced that a food additive petition (FAP 2B3624), had been filed by Ciba-Geigy Corp., Three Skyline Drive,

Hawthorne, NY 10532, proposing that Part 178 (21 CFR Part 178) be amended to provide for the safe use of tetrakis[methylene(3, 5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane as an antioxidant in lubricants with incidental food contact.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive is safe and that the food additive regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the contact person listed above. As provided in § 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3570(a)(3) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	Limitations
* * *	* * *
Tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane (CAS Reg. No. 6683-19-8).	For use only as an antioxidant in lubricants at a level not to exceed 0.5 percent by weight of the lubricant.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 15, 1982, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation becomes effective October 15, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: October 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28153 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulation that reflects approval for use of a lasalocid premix for making medicated cattle feeds to state that lasalocid fermentation residue may also be used in the premix. A supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc., provided for this use, but it is not clearly reflected in the regulation. This document clarifies that portion of the regulation, corrects errors in the conditions-of-use table, and recodifies certain warning statements.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1982 (47 FR 34133), FDA issued a document reflecting approval of a supplement to NADA 96-298, filed by Hoffmann-La Roche, Inc., Nutley, NJ 07710, providing for use of Bovatec (crystalline lasalocid and lasalocid) premixes to make feed for beef cattle fed in confinement for slaughter. A crystalline lasalocid sodium premix was previously approved for use in poultry. This document amends the regulation to make clear that the cattle premix may contain lasalocid as the crystalline sodium salt, as lasalocid dried fermentation residue, or as a mixture of both. The content of total lasalocid in the premix is expressed in terms of the lasalocid sodium standard.

Additionally, in § 558.311, the word "sodium" is removed from the section heading, former paragraph (e) "Conditions of use" is redesignated as paragraph (f), and former paragraph (f) "Special considerations" is redesignated as paragraph (e); in (f)(6) and (7) as redesignated, "(0.033 pct)" is corrected to read "(0.0033 pct)"; and certain warning statements are recodified under "Special considerations."

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.311 by revising the section heading and paragraph (a), by adding a sentence after the last sentence in paragraph (b)(3), by redesignating paragraph (e) as (f) and paragraph (f) as (e), respectively, and by revising

redesignated paragraphs (e) and (f)(6) and (7), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.311 Lasalocid.

(a) *Specifications.* Lasalocid is the substance produced by the fermentation of *Streptomyces lasaliensis.* Lasalocid is present as the crystalline sodium salt, or as the dried fermentation residue, or as a mixture of both. A minimum of 90-percent lasalocid activity is derived from lasalocid A.

(b) * * *

(3) * * * Premixes containing lasalocid dried fermentation residue are for use in cattle feed only.

* * * * *

(e) *Special considerations.* (1) Complete cattle feeds made from feed supplements containing not more than 1,440 grams of lasalocid sodium activity per ton and complying with the provisions of paragraph (f) (6) or (7) of this section are not required to comply with the requirements of section 512(m) of the act.

(2) Labeling for cattle feeds and/or supplements shall contain the following caution statements:

(i) Complete cattle feeds and supplements: "The safety of lasalocid in unapproved species and breeding cattle has not been established."

(ii) Cattle feed supplements: "Do not allow horses or other equines access to lasalocid as ingestion may be fatal; feeding undiluted or mixing errors resulting in excessive concentrations of lasalocid could be fatal to cattle."

(f) *Conditions of use.* It is used in animal feed as follows:

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(6) 10 (0.0011 pct) to 30 (0.0033 pct).	.....	Cattle; for improved feed efficiency.	In complete feeds; for cattle fed in confinement for slaughter only; feed continuously in complete feed to provide not less than 100 mg nor more than 360 mg of lasalocid sodium activity per head per day.	000004
(7) 25 (0.0027 pct) to 30 (0.0033 pct).	.....	Cattle; for improved feed efficiency and increased rate of weight gain.	In complete feeds; for cattle fed in confinement for slaughter only; feed continuously in complete feed to provide not less than 250 mg nor more than 360 mg of lasalocid sodium activity per head per day.	000004

Effective date: August 6, 1982.

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

Dated: October 8, 1982.

Robert A. Baldwin,

Associate Director of Scientific Evaluation.

[FR Doc. 82-28347 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 813

[Docket No. 78N-0400]

Protection of Human Subjects; Investigational Exemption for Intraocular Lenses; Informed Consent; Conforming Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule; conforming amendments.

SUMMARY: The Food and Drug Administration (FDA) is issuing conforming amendments to the final rule on protection of human subjects; informed consent, which was published in the **Federal Register** of January 27, 1981 (46 FR 8942).

EFFECTIVE DATE: October 15, 1982.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1981 (46 FR 8942), FDA published the final rule on protection of human subjects; informed consent. In the conforming amendments to the regulations, 21 CFR Part 813 was amended by removing Subpart F—Informed Consent of Human Subjects. The agency inadvertently failed to amend those sections of Part 813 that referred to Subpart F to incorporate appropriate references to the informed consent provisions contained in 21 CFR Part 50. This document amends those sections in Part 813 as set forth below.

List of Subjects in 21 CFR Part 813

Intraocular lenses, Medical devices, Medical research.

PART 813—INVESTIGATIONAL EXEMPTIONS FOR INTRAOCULAR LENSES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 520 (g) and (l), 701(a), 52 Stat. 1055, 90 Stat. 569-571, 572-574 (21 U.S.C. 360j (g) and (l), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 813 is amended as follows:

1. In § 813.5 by removing the footnote and revising paragraph (c)(4), to read as follows:

§ 813.5 General qualifications for an exemption.

* * * * *

(c) * * *

(4) The sponsor has complied with the requirements of Subparts B, C, and G of this part, any institutional review committee that is to review and approve the investigational study for which shipment is made has complied with the requirements of Subparts D and G of this part, and the investigator(s) to which the shipment is to be made has complied with the requirements of Subparts E and G of this part and with the requirements for informed consent contained in Part 50 of this chapter.

* * * * *

2. In § 813.20 by removing the footnote and revising paragraph (b) (8) and (11), to read as follows:

§ 813.20 Application.

* * * * *

(b) * * *

(8) A copy of all informational materials to be given to subjects, including all form(s) to be used to obtain informed consent of human subjects as required by Part 50 of this chapter (this material may be appended to the investigational plan or the summary of the investigational plan).

* * * * *

(11) A copy of the agreement signed by investigators who will be participating, to comply with Subparts E and G of this part and Part 50 of this chapter as required by § 813.43(b).

* * * * *

3. In § 813.43 by removing the footnote and revising paragraph (b)(2), to read as follows:

§ 813.43 Selection of investigators.

* * * * *

(b) * * *

(2) An agreement to comply with the investigational plan and the requirements of Subparts E and G of this part and Part 50 of this chapter.

* * * * *

4. In § 813.66 by revising paragraphs (a)(6) and (f)(3), to read as follows:

§ 813.66 Procedures and criteria for review of investigational studies by an institutional review committee.

(a) * * *

(6) Assure that the rights of human subjects are properly protected, that legally effective informed consent is obtained, and that the method of obtaining consent properly informs the human subject of the significant aspects of the study in accordance with Part 50 of this chapter.

* * * * *

(f) * * *

(3) A legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of Part 50 of this chapter; and

* * * * *

5. In § 813.155 by removing the footnote and revising paragraph (d)(2), to read as follows:

§ 813.155 Records.

* * * * *

(d) * * *

(2) All documentation regarding the consent of the human subjects, as required by Part 50 of this chapter.

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Because these are merely conforming amendments to a final rule that the agency inadvertently did not publish at the time of publication of the final rule, notice and public procedure are unnecessary in accordance with 5 U.S.C. 553(b)(B).

Effective date. October 15, 1982.

(Secs. 520 (g) and (l), 701(a), 52 Stat. 1055, 90 Stat. 569–571, 572–574 (21 U.S.C. 360j (g) and (l), 371(a)))

Dated: October 6, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28050 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7840]

Industrial Development Bonds for Residential Rental Housing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 103(b) relating to industrial development bonds the proceeds of which are to be used for residential rental housing. Changes to section 103(b)(4)(A) of the Internal Revenue Code of 1954 were made by sections 1103 and 1104 of the Omnibus Reconciliation Act of 1980 (94 Stat. 2669) and section 221 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 324). These final regulations interpret those provisions.

DATES: In general, the final regulations are effective with respect to obligations issued after April 24, 1979. Regulations under § 1.103–8(b)(7)(ii) are effective with respect to obligations issued after September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On May 26, 1982, the **Federal Register** published proposed regulations under section 103(b) of the Internal Revenue Code of 1954, relating to industrial development bonds for residential rental projects (47 FR 22966). Numerous comments were received and a public hearing was requested. In accordance with a notice of public hearing published in the **Federal Register** on June 30, 1982, (47 FR 28427), a hearing was held on July 27, 1982.

On September 3, 1982, the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 324) (hereinafter "TEFRA") was enacted. Section 221 of TEFRA made certain amendments to section 103(b)(4)(A).

Explanation of Provisions

This document contains final regulations relating to industrial development bonds issued under section 103(b)(4)(A), of the Internal Revenue Code of 1954, as amended by sections 1103 and 1104 of the Omnibus Reconciliation Act of 1980 (94 Stat. 2669) and section 221 of TEFRA.

Generally, interest on industrial development bonds is includible in the recipients gross income. Section 103(b)(4)(A) provides an exception for obligations which are part of an issue substantially all the proceedes of which are to be used for a residential rental project. Subject to contain additional requirements, interest on such obligations is not includable in gross income.

Under the proposed regulations a residential rental project would be any building or structure (hereinafter "building") or several interrelated buildings each containing residential rental units which are to be used on other than a transient basis and any facilities which are functionally related and subordinate thereto. Further, the proposed regulations would require that a specified percentage of units be rented to individuals or families of low or moderate income for a minimum period of twenty years. The final regulations amend the proposed regulations by providing that a residential rental project is a building or structure which contains a unit or similarly constructed units which are to be used on other than a transient basis and any facilities which are functionally related and subordinate thereto. The final regulations make several other changes to the definition of residential rental project as proposed.

The final regulations provide that a project is a buildings containing a single unit. Accordingly, detached houses, rowhouses, and other building containing a single dwelling unit may constitute projects. Further, the final regulations under § 1.103–8(b)(8)(iv) provide that a building is a discrete edifice consisting of an independent foundation, outer walls, and roof. As such, units which are part of a building (e.g., certain townhouses or a unit in a building, even if separately owned) but which do not constitute an entire building are not residental rental projects. The final regulations delete the rule that treats property as a single building or structure only if a single election may be made with respect to such property under section 168(b)(3)(B)(ii).

Section 1.103–8(b)(4) also provides that several buildings which are owned by the same person and which are financed pursuant to a common plan may be treated as part of the same project. The regulations provide that for purposes of § 1.103–8(b) a common plan of financing exists if all such buildings are provided with the proceeds of the same issue. As such, the provisions of § 1.103–8(b)(5)(ii), relating to the low or moderate income requirement, must be satisfied with respect to 20 percent (15 percent in targeted areas) of the units contained in such buildings.

The final regulations clarify the meaning of the term "similar units" by substituting the term "similarly constructed units". A similarly constructed unit is one with similar quality and type of construction. Such units need not contain the same number of rooms or the same amount of floor space.

The final regulations also clarify that units occupied by resident managers and other employees who are reasonably required to maintain residences on the property are functionally related and subordinate facilities.

Proposed § 1.103-8(b)(5)(iii) is redesignated as § 1.103-8(b)(6) and is amended by this Treasury Decision so as to clarify that a reasonable period for the issuer to take action to correct a failure to comply with the requirements of paragraph (b), so as to preserve the tax exempt status of the obligation, is at least 60 days. A longer period is allowable only if reasonably necessary. Furthermore, the final regulations are amended so as to provide that such period commences when any noncompliance is first discovered or would have been discovered through the exercise of reasonable diligence.

In the case of certain events causing an involuntary noncompliance, the final regulations modify the requirements of this paragraph (b) for the project, without altering the tax-exempt status of the obligations. New examples of such events which terminate the continuous rental requirements are the transfer of title by deed in lieu of foreclosure and certain actions of a Federal agency after the date of issue with respect to the project. The final regulations also provide that such termination shall not apply to a project upon foreclosure, transfer of title by deed in lieu of foreclosure or similar occurrence if the mortgagor or any related party thereafter maintains or acquires an ownership interest in the project for tax purposes during the qualified project period. As such, exercise by a mortgagor of a statutory right of redemption after a sale by the mortgagee upon the default of the mortgagor will mean that a project will be required to meet continuously the requirements of § 1.103-8(b)(5).

The rule contained in § 1.103-8(b)(5)(i) of the notice which would prohibit occupancy of any unit in a residential rental project by a person related to the owner is deleted. Moreover, a unit that is occupied by a resident manager or other necessary employee (*e.g.*, maintenance and security personnel) and that is a functionally related and subordinate facility may be occupied by the owner. Under § 1.103-8(b)(4)(iv) any building which contains fewer than five units and one of the units of which is owner-occupied is treated as an owner-occupied residence under section 103A and not as a residential rental project.

Section 221 of TEFRA amended section 103(b)(4)(A) of the Code by providing that units in a project must be maintained as rental units for individuals and families of low or moderate income during a qualified project period. Further, the final regulations provide that all of the units must be maintained as rental units for the longer of (1) the qualified project period or (2) the term of the issue. As such, the regulations provide that all of the units, whether or not targeted to individuals or families of low or moderate income, must be maintained as rental units for a minimum of the qualified project period, which is approximately equal to the longer of (1) 10 years after the date on which 50 percent of the units are first occupied, (2) one-half of the term of the longest maturity obligation (including any refunding obligations), or (3) the period during which section 8 assistance is provided with respect to the project. The rules provided by TEFRA are effective with respect to obligations issued after September 3, 1982.

Several commentators recommended that the proposed rule, relating to the low or moderate income occupancy requirement, provided in § 1.103-8(b)(5)(ii) be deemed met whenever a developer of a project enters into a contract with a Federal or state agency which requires that at least 20 percent of the units be maintained for persons of low or moderate income for 20 years and such agency provides rent subsidies to such individuals or families. The recommendation is based on a statement in the legislative history. See Conference Report on the Omnibus Reconciliation Act of 1980, H.R. Rep. No. 96-1479, 96th Congress, 2nd Sess. 182 (1980). The final regulations under § 1.103-8(b)(7) adopt the recommended, "safe harbor" treatment; however, as a result of TEFRA the treatment only applies to obligations issued prior to September 4, 1982.

Finally, the definition of "individuals of low or moderate income" was clarified by TEFRA so as to provide that an individual or family shall be determined to have a low or moderate income if such individual's or family's income is 80 percent of the average area median income. The regulations under § 1.103-8(b)(8)(v) reflect such clarification.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that these final regulations are interpretative and thus not subject to the requirements of 5 U.S.C. 553. Accordingly, these final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

The Treasury Department has determined that these final regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these final regulations is Harold T. Flanagan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61-1—1.281-4

Income taxes, Taxable income, Deductions, Exemptions, Industrial development bonds.

Adoption of amendments to the regulations.

PART 26—[AMENDED]

Accordingly, the proposed amendments to the Income Tax Regulations (26 CFR Part 1) are adopted as follows:

Paragraph 1. Section 1.103-8 is amended by revising the second sentence of paragraph (a)(4), by revising paragraph (b), by removing Examples (1) and (2) of paragraph (i) and redesignating Examples (3), (4), (5), (6), (7), and (8) thereof as Examples (1), (2), (3), (4), (5), and (6) respectively, and by revising redesignated Example (6) of paragraph (i). The revised and amended provisions read as follows:

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

(a) *In general.*

* * * * *

(4) *Ultimate use of proceeds.* * * * For example, such proceeds will be treated as used to provide residential rental property whether the State or local governmental unit (i) constructs such property and leases or sells it to any person who is not an exempt person for use in such person's trade or business of leasing such property; (ii) lends the proceeds to any such person for such purpose; or (iii) lends the proceeds to banks or other financial institutions in order to increase the supply of funds for mortgage lending under conditions requiring such banks or other financial institutions to use

such proceeds only for further lending for residential rental property.

* * * * *

(b) *Residential rental property*—(1) *General rule for obligations issued after April 24, 1979.* Section 103(b)(1) shall not apply to any obligation which is issued after April 24, 1979, and is part of an issue substantially all of the proceeds of which are to be used to provide a residential rental project in which 20 percent or more of the units are to be occupied by individuals or families of low or moderate income (as defined in paragraph (b)(8)(v) of this section). In the case of a targeted area project, the minimum percentage of units which are to be occupied by individuals of low or moderate income is 15 percent. See generally § 1.103-7 for rules relating to refunding issues.

(2) *Registration requirement.* Any obligation (including any refunding obligation) issued after December 31, 1981, to provide a residential rental project must be issued as part of an issue, each obligation of which is in registered form (as defined in paragraph (b)(8)(ii) of this section).

(3) *Transitional rule.* For purposes of this section, obligations issued after April 24, 1979, may be treated as issued before April 25, 1979, if the transitional requirements of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 (94 Stat. 2670) are satisfied.

(4) *Residential rental project.* (i) *In general.* A residential rental project is a building or structure, together with any functionally related and subordinate facilities, containing one or more similarly constructed units—

(*a*) Which are used on other than a transient basis, and

(*b*) Which satisfy the requirements of paragraph (b)(5)(i) of this section and are available to members of the general public in accordance with the requirement of paragraph (a)(2) of this section.

Substantially all of each project must contain such units and functionally related and subordinate facilities. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, nursing homes, sanitariums, rest homes, and trailer parks and courts for use on a transient basis are not residential rental projects.

(ii) *Multiple buildings.* (*a*) Proximate buildings or structures (hereinafter "buildings") which have similarly constructed units are treated as part of the same project if they are owned for Federal tax purposes by the same person and if the buildings are financed pursuant to a common plan.

(*b*) Buildings are proximate if they are located on a single tract of land. The term "tract" means any parcel or parcels of land which are contiguous except for the interposition of a road, street, stream or similar property. Otherwise, parcels are contiguous if their boundaries meet at one or more points.

(*c*) A common plan of financing exists if, for example, all such buildings are provided by the same issue or several issues subject to a common indenture.

(iii) *Functionally related and subordinate facilities.* Under paragraph (a)(3) of this section, facilities that are functionally related and subordinate to residential rental projects include facilities for use by the tenants, for example, swimming pools, other recreational facilities, parking areas, and other facilities which are reasonably required for the project, for example, heating and cooling equipment, trash disposal equipment or units for resident managers or maintenance personnel.

(iv) *Owner-occupied residences.* For purposes of section 103 (b)(4)(A) and this paragraph (b), the term "residential rental project" does not include any building or structure which contains fewer than five units, one unit of which is occupied by an owner of the units.

(5) *Requirement must be continuously satisfied—(i) Rental requirement.* Once available for occupancy, each unit (as defined in paragraph (b)(8)(i) of this section) in a residential rental project must be rented or available for rental on a continuous basis during the longer of—

(*a*) the remaining term of the obligation, or

(*b*) the qualified project period (as defined in paragraph (b)(7) of this section).

(ii) *Low or moderate income occupancy requirement.* Individuals or families of low or moderate income must occupy that percentage of completed units in such project applicable to the project under paragraph (b)(1) of this section continuously during the qualified projedct period. For this purpose, a unit occupied by an individual or family who at the commencement of the occupancy is of low or moderate income is treated as occupied by such an individual or family during their tenancy in such unit, even though they subsequently cease to be of low or moderate income. Moreover, such unit is treated as occupied by an individual or family of low or moderate income until reoccupied, other than for a temporary period, at which time the character of the unit shall be redetermined. In no event shall such temporary period exceed 31 days.

(6) *Effect of post-issuance noncompliance.*—(i) *In general.* Unless corrected within a reasonable period, noncompliance with the requirements of this paragraph (b) shall cause the project to be treated as other than a project described in section 103 (b)(4)(A) and this paragraph (b) as of the date of issue. After an issue to provide such project ceases to qualify, subsequent conformity with the requirements will not alter the taxable status of such issue.

(ii) *Correction of noncompliance.* If the issuer corrects any noncompliance arising from events occurring after the issuance of the obligation within a reasonable period, such noncompliance (*e.g.*, an unauthorized sublease) shall not cause the project to be a project not described in this paragraph (b). A reasonable period is at least 60 days after such error is first discovered or would have been discovered by the exercise of reasonable diligence.

(iii) *Involuntary loss.* (*a*) The requirements of paragraph (b) shall cease to apply to a project in the event of involuntary noncompliance caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a Federal law or an action of a Federal agency after the date of issue which prevents an issuer from enforcing the requirements of this paragraph, or condemnation or similar event but only if, within a reasonable period, either the obligation used to provide such project is retired or amounts received as a consequence of such event are used to provide a project which meets the requirement of section 103 (b)(4)(A) and this paragraph (b).

(*b*) The provisions of paragraph (b)(6)(iii)(*a*) of this section shall cease to apply to a project subject to foreclosure, transfer of title by deed in lieu of foreclosure or similar event if, at anytime during that part of the qualified project period subsequent to such event, the obligor on the acquired purpose obligation (as defined in § 1.103-13(b)(4)(iv)(*a*)) or a related person (as defined in § 1.103-10(e)) obtains an ownership interest in such project for tax purposes.

(7) *Qualified project period.* The term "qualified project period" means—

(i) For obligations issued after April 24, 1979, and prior to September 4, 1982, a period of 20 years commencing on the later of the date that the project becomes available for occupancy or the date of issue of the obligations. The requirement of paragraph (b)(5)(ii) of this section shall be deemed met if the owner of the project contracts with a Federal or state agency to maintain at

least 20 percent (or 15 percent in the case of targeted areas) of the units for low or moderate income individuals or families (as defined in paragraph (b)(8)(v) of this section) for 20 years in consideration for rent subsidies for such individuals or families for such period.

(ii) For obligations issued after September 3, 1982, a period beginning on the later of the first day on which at least 10 percent of the units in the project are first occupied or the date of issue of an obligation described in section 103(b)(4)(A) and this paragraph and ending on the later of the date—

(*a*) Which is 10 years after the date on which at least 50 percent of the units in the project are first occupied,

(*b*) Which is a qualified number of days after the date on which any of the units in the project is first occupied, or

(*c*) On which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

For purposes of this paragraph (b)(7)(ii), the term "qualified number of days" means 50 percent of the total number of days comprising the term of the obligation with the longest maturity in the issue used to provide the project. In the case of a refunding of such an issue, the longest maturity is equal to the sum of the period the prior issue was outstanding and the longest term of any refunding obligations.

(8) *Other definitions.* For purposes of this paragraph—

(i) *Unit.* The term "unit" means any accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation. Such accommodations may be served by centrally located equipment, such as air conditioning or heating. Thus, for example, an apartment containing a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator, and sink, all of which are separate and distinct from other apartments, would constitute a unit.

(ii) *In registered form.* The term "in registered form" has the same meaning as in section 6049. With respect to obligations issued after December 31, 1982, such term shall have the same meaning as prescribed in section 103(j) (including the regulations thereunder).

(iii) *Targeted area project.* The term "targeted area project" means a project located in a qualified census tract (as defined in § 6a.103A–2(b)(4)) or an area of chronic economic distress (as defined in § 6a.103A–2(b)(5)).

(iv) *Building or structure.* The term "building or structure" generally means a discrete edifice or other man-made construction consisting of an independent foundation, outer walls, and roof. A single unit which is not an entire building but is merely a part of a building is not a building or structure within the meaning of this section. As such, while single townhouses are not buildings if their foundation, outer walls, and roof are not independent, detached houses and rowhouses are buildings.

(v) *Low or moderate income.* Individuals and families of low or moderate income shall be determined in a manner consistent with determinations of lower income families under section 8 of the United States Housing Act of 1937, as amended, except that the percentage of median gross income which qualifies as low or moderate income shall be 80 percent. Therefore, occupants of a unit are considered individuals or families of low or moderate income only if their adjusted income (computed in the manner prescribed with § 1.167(k)–3(b)(3)) does not exceed 80 percent of the median gross income for the area. Notwithstanding the foregoing, the occupants of a unit shall not be considered to be of low or moderate income if all the occupants are students (as defined in section 151(e)(4)), no one of whom is entitled to file a joint return under section 6013. The method of determining low or moderate income in effect on the date of issue will be determinative for such issue, even if such method is subsequently changed. In the event programs under § 8(f) of the Housing Act of 1937, as amended, are terminated prior to the date of issue, the applicable method shall be that in effect immediately prior to the date of such termination.

(9) *Examples.* The following examples illustrate the application of this paragraph (b).

Example (1). In August 1982, City X issues $10 million of registered bonds with a term of 20 years to be used to finance the construction of an apartment building to be available to members of the general public. X loans the proceeds of the bonds to Corporation M, the tax owner of the project. The loan is secured by a promissory note from M and a mortgage on the project. The mortgage requires annual payments sufficient to amortize the principal and interest on the bonds. Corporation M maintains 20 percent of the units in the project for low or moderate income individuals and meets all of the requirements of this section until 2002, at which time M converts the project to offices. The bonds are industrial development bonds, but because the proceeds are used for construction of residential rental property, which is an exempt facility under section 103(b)(4)(A) and paragraph (b) of this section, section 103(b)(1) does not apply.

Example (2). The facts are the same as in example (1), except that the building is constructed adjacent to a factory, and the factory employees are to be given preference in selecting tenants. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(b)(4)(A) and paragraph (b) of this section because it is not a facility constructed for use by the general public.

Example (3). The facts are the same as in example (1), except that the proceeds of the obligation are provided to N, a cooperative housing corporation, to finance the construction of a cooperative housing project. N sells stock in such cooperative to shareholders, some of whom occupy the units in the cooperative and some of whom rent the units to other persons. Such project is not a residential rental project within the meaning of section 103(b)(4)(A) and § 1.103–8(b) because less than all of the units in the building are used for rental. Further, the bonds are mortgage subsidy bonds under section 103A because more than a significant portion of the proceeds are used to provide financing for residences, some of which are owner-occupied and some of which are used in the trade or business of rental.

Example (4). On February 1, 1984, County Z issues registered obligations with a term of 3 years and loans the proceeds to Corporation V to construct a garden apartment project for tenants who are 65 years or older. The mortgage on the project secures the loan. At the end of 3 years, V obtains permanent financing for the project from a commercial lender. The project is not a targeted area project. V has not contracted with any Federal or state agency to provide rental assistance under section 8 of the United States Housing Act of 1937. As a condition for providing financing for construction, Z requires that the deed to the project contain a covenant that requires the project be used for elderly tenants and restricts occupancy of 20 percent of the units in the project to individuals or families of low or moderate income. Further, the deed provides that "Such covenant shall run with and bind the land, from the date that ten percent of the units in the project are first occupied until ten years after the date that at least half the units are first occupied. The right to enforce these restrictions is vested in County Z." In 1990, however, less than 20 percent of the units are occupied by families or individuals of low or moderate incomes, and three months after learning of this condition County Z had not commenced enforcement of the covenant. Although on the date of issue the proceeds of the obligation were used to provide a residential rental project, the obligation will not be treated as providing a residential rental project within the meaning of section 103(b)(4)(A) as of February 1, 1984, because the project did not meet the requirements of this paragraph for at least 10 years after at least 50 percent of the units are first occupied.

Example (5). On January 15, 1983, State X issues registered obligations with a term of 15 years, the proceeds of which are loaned to Corporation P to construct an apartment building. The project will be a "targeted area project", within the meaning of § 1.103–8(b)(8)(iii). Corporation P intends to rent all

the units to individuals for their residences, maintaining 15 percent of the units in the project for individuals having low or moderate incomes, for 15 years. In 1988, however, Corporation P converts 80 percent of the units to condominiums. Corporation P repays the loan to State X which, in turn, redeems the obligations. The obligations are not used to provide a residential rental project within the meaning of section 103(b)(4)(A), and all the interest paid or to be paid on such obligations will be includable in gross income.

Example (6). On January 15, 1984, State Z issues registered obligations with a term of 15 years the proceeds of which will be used to acquire and renovate a residential apartment building. Z sells the project to Corporation U and receives a 30-year mortgage. On June 1, 1985, the first occupants of the project commence their tenancies. At least 50 percent of the units in the project are occupied on July 1, 1985. On January 15, 1988, Z issues 35-year refunding bonds the proceeds of which are used to retire the obligations issued in 1984. The prior issue will be discharged by March 15, 1988. In order to meet the requirement of § 1.103–8(b)(5)(ii), at least 20 percent of such units must be occupied by individuals of low or moderate income until January 1, 2005.

Example (7). The facts are the same as in example (6) except that in 1987, the apartment building is substantially destroyed by fire. The building was insured at its fair market value. U does not intend to reconstruct the building but uses a portion of the insurance proceeds to repay the unpaid balance of the mortgage. Z uses this amount to redeem the outstanding bonds at the first available call date. Since the project was substantially destroyed by fire and the outstanding bonds are retired at the first available call date, the requirements of section 103(b)(4)(A) and this paragraph (b) are satisfied with respect to the obligations.

Example (8). The facts are the same as in example (6) except that in 1987 U defaults on the mortgage, and Z obtains title to the project without instituting foreclosure proceedings. Z sells the project to S and uses the proceeds to retire the outstanding bonds. Since S did not obtain the project with obligations described in section 103(b)(4), S is not required to meet the requirements of section 103(b)(4)(A) and this paragraph. Further, the 1984 obligations are obligations described in section 103(b)(4)(A).

Example (9). In September 1983, State W issues $10 million of registered bonds with a term of 3 years, the proceeds of which are to be loaned to Corporation V to finance the construction of an apartment building in a rural community. At the end of 3 years, V obtains permanent financing from Federal Agency T. Agency T will not allow the deed to contain any restrictive covenant relating to the use of the project. Under Federal law, however, T requires that V maintain all of the units in the project for rental to low-income farmworkers for the term of the mortgage, which is 20 years. Further, the mortgage between T and V provides that if T determines that low-income housing is no longer required in the community in which the project is constructed then the repayment of the mortgage may be accelerated. T determines as of the date of issue that low-income housing will be needed in the community for at least 20 years. In 1987, the project fails to meet the requirements of section 1.103–8(b)(5)(ii), relating to occupancy by individuals or families of low or moderate income. Further, T does not require V to correct the failure. Based on the foregoing, the bonds issued by W will be treated as described in section 103(b)(4)(A).

Example (10). The facts are the same as in example (9) except that in 1987, the Federal law is amended to provide that Agency T may not enforce its low-income occupancy requirement. The result is the same.

Example (11). The facts are the same as in example (9) except that in 1987 Agency T determines that due to a change in circumstances in the community in which the project is located low-income rental housing is no longer required. As such, T requires V to repay the mortgage. Since the obligations have been repaid, W has no legal right to enforce the requirements of paragraph (b) with respect to the project. Subsequent nonconformity of the project with the requirements of § 1.103–8(b) under these circumstances will not cause the obligations issued by W to be industrial development bonds within the meaning of section 103(b)(1).

(10) *Obligations issued before April 25, 1979*—(i) *General rules.* Section 103(b)(1) shall not apply to obligations issued before April 25, 1979, which are part of an issue substantially all of the proceeds of which are to be used to provide residential real property for family units. In order to qualify under this paragraph (b) as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public.

(ii) *Family units defined.* For purposes of this paragraph (b) the term "family unit" means a building or any portion thereof which contains complete living facilities which are to be used on other than a transient basis by one or more persons, and facilities functionally related and subordinate thereto. Thus, an apartment which is to be used on other than a transient basis as a residence by a single person or by a family and which contains complete facilities for living, sleeping, eating, cooking, and sanitation, constitutes a family unit. Such a unit may be served by centrally located machinery and equipment as in a typical apartment building. To qualify as a family unit, the living facilities must be a separate, self-contained building or constitute one unit in a building substantially all of which consists of similar units, together with functionally related and subordinate facilities and areas. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and trailer parks and courts for use on a transient basis do not constitute residential real property for family units.

(iii) *Functionally related and subordinate facilities.* Under paragraph (a)(3) of this section, facilities which are functionally related and subordinate to residential real property actually used for family units include, for example, facilities for use by the occupants such as a swimming pool, a parking area, and recreational facilities.

* * * * *

(i) *Examples.* * * *

Example (6). City G issues $20 million of its bonds and will use $6 million to finance residential rental property which qualifies as an exempt facility under section 103(b)(4)(A) and paragraph (b) of this section, $9 million to finance construction of a stadium which qualifies as an exempt facility under section 103(b)(4)(B) and paragraph (c) of this section, and $5 million for convention facilities which qualify as exempt facilities under section 103(b)(4)(C) and paragraph (d) of this section. The facilities will be used in the trades or businesses of nonexempt persons and rental payments with respect to such facilities and the facilities themselves will be the security for the bonds. The bonds are industrial development bonds, but since all the proceeds are to be used for facilities which are exempt facilities under section 103(b)(4), section 103(b)(1) does not apply unless the provisions of section 103(b)(10) and § 1.103–11 apply. The result would be the same, if; instead of using $9 million to finance construction of a stadium, the $9 million were used to finance construction of a capitol building. [Reg. § 1.103–8].

* * * * *

Par. 2. Section 1.103–10 is amended by redesignating paragraph (f) as paragraph (g) and by adding a new paragraph (f) immediately after paragraph (e). New paragraph (f) reads as follows:

§ 1.103–10 Exemption for certain small issues of industrial development bonds.

* * * * *

(f) *Disqualification of certain small issues.* (1) Section 103(b)(6) shall not apply to any obligation issued after April 24, 1979, which is part of an issue, a significant portion of the proceeds of which are to be used directly or indirectly to provide residential real property for family units. For purposes of the preceding sentence, the term "residential real property for family units" means residential rental projects (within the meaning of § 1.103–8(b)) and owner-occupied residences (within the meaning of section 103A).

(2) For purposes of paragraph (f)(1), a significant portion of the proceeds of an issue are used to provide residential real

property for family units if 5 percent or more of the proceeds are so used.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: October 8, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-28415 Filed 10-12-82; 4:19 pm]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-9-FRL 2227-6]

Delegation of New Source Performance Standards (NSPS); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of New Source Performance Standards (NSPS) authority to the Maricopa County Bureau of Air Pollution Control (MCBAPC). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of NSPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS source categories from EPA to local governments.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236; FTS 454-8236.

SUPPLEMENTARY INFORMATION: The MCBAPC has requested authority for delegation of certain NSPS source categories. A delegation of authority was granted by letter dated March 22, 1982 and is reproduced in its entirety as follows:

Mr. Robert W. Evans,
Maricopa County Bureau of Air Pollution Control,
1845 E. Roosevelt Street,
Phoenix, AZ 85006

Dear Mr. Evans: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR, part 60, subpart
Electric utility steam generators	Da.
Storage vessels for petroleum liquids	Ka.
Kraft pulp mills	BB.
Glass manufacturing plants	CC.
Grain elevators	DD.
Stationary gas turbines	GG.
Lime manufacturing plants	HH.
Automobile and light duty truck surface coating operations.	MM.
Ammonium sulfate	PP.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

cc: Arizona Department of Health Services.

With respect to Maricopa County, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the MCBAPC at the address shown in the letter of delegation.

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

(Sec. 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: October 1, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-28431 Filed 10-14-82; 8:45 am

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2227-7]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to State and local governments.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS and NESHAPS source categories. A delegation of authority was granted by letter dated March 22, 1982 and is reproduced in its entirety as follows:

Mr. Richard Serdoz,
Division of Environmental Protection,
Nevada Department of Conservation and Natural Resources, 201 South Fall Street,
Carson City, NV

Dear Mr. Serdoz: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Electric utility steam generators	Da.
Storage vessels for petroleum liquids.	Ka.
Kraft pulp mills	BB.
Glass manufacturing plants	CC.
Grain elevators	DD.
Stationary gas turbines	GG.
Lime manufacturing plants	HH.
Automobile and light duty truck surface coating operations.	MM.
Ammonium sulfate	PP.

NESHAPS	40 CFR Part 61 Subpart
Asbestos	B.
Beryllium	C.
Beryllium rocket motor firing	D.
Mercury	E.
Vinyl chloride	F.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written

notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

With respect to areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the NDCNR at the address shown in the letter of delegation.

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

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: October 1, 1982.

Sonia F. Crow,

Regional Administrator.

PART 61—[AMENDED]

Subpart A of Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

1. Section 61.04(b)(DD) is amended by adding the address of the Nevada Department of Conservation and Natural Resources, to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(DD) * * *

* * * * *

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City, NV 89710.

* * * * *

[FR Doc. 82-28420 Filed 10-14-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-9-FRL 2227-5]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) authority to the Arizona Department of Health Services (ADHS). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to State and local governments.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The ADHS has requested authority for delegation of certain NSPS and NESHAPS source categories. A delegation of authority was granted by letter dated March 22, 1982 and is reproduced in its entirety as follows:

Dr. James E. Sarn,

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

Dear Dr. Sarn: I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Fossil-fuel fired steam generators	D.
Incinerators	E.
Portland cement plants	F.
Nitric acid plants	G.
Sulfuric acid plants	H.
Asphalt concrete plants	I.
Petroleum refineries	J
Storage vessels for petroleum liquids.	K.
Secondary lead smelters	L.
Secondary brass & bronze ingot production plants.	M.
Iron and steel plants (BOPF)	N.
Sewage treatment plants	O.
Primary copper smelters	P.
Primary zinc smelters	Q.
Primary lead smelters	R.
Primary aluminum reduction plants.	S.
Phosphate fertilizer industry: wet process phosphoric acid plants.	T.
Phosphate fertilizer industry: superphosphoric acid plants.	U.
Phosphate fertilizer industry: diammonium phosphate plants.	V.
Phosphate fertilizer industry: triple superphosphate plants.	W.
Phosphate fertilizer industry: granular triple superphosphate.	X.
Coal preparation plants	Y.
Ferroalloy production facilities	Z.
Iron and steel plants (electric arc furnaces).	AA.
Kraft pulp mills	BB.
Grain elevators	DD.
Stationary gas turbines	GG.
Lime manufacturing plants	HH.

NESHAPS	40 CFR Part 61 Subpart
Asbestos	B
Beryllium	C.
Beryllium rocket motor firing	D.
Mercury	E.
Vinyl chloride	F.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

With respect to areas under the jurisdiction of the ADHS, all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the ADHS at the address shown in the letter of delegation.

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

(Secs. 111 and 112, Clean Air Act, as amended (42 U.S.C. 1857, *et seq*))

Dated: October 1, 1982.

Sonia F. Crow,

Regional Administrator.

PART 60—[AMENDED]

PART 61—[AMENDED]

Subpart A of Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

§ 60.4 and 61.04 [Amended]

1. Sections 60.4(b)(D) and 61.04(b)(D) are each amended by adding the address of the Arizona Department of Health Services to read as follows:

* * * * *

(b) * * *

(D) * * *

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

* * * * *

[FR Doc. 82-28430 Filed 10-14-82; 8:45 am]

BILLING CODE 6560-50-M

VETERANS ADMINISTRATION

41 CFR Part 8-1

General; Incorporation of Certification

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This revision incorporates a certification in all solicitations and proposals for contracts exceeding $10,000 notifying contractors of restrictions pertaining to the use of former Government employees. The Ethics in Government Act (18 U.S.C. 207) restricts former Government employees under certain conditions and for certain periods of time from aiding contractors in securing Government contracts, and in some instances from obtaining such contracts for themselves. These specific conditions are set forth in the certifications. This regulation will prevent post-employment conflict of interest.

EFFECTIVE DATE: This rule is effective October 7, 1982.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 389-2334.

SUPPLEMENTARY INFORMATION: The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of Section 603 and Section 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the VA to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only affects internal procedures, the rulemaking process is considered unnecessary in this instance.

List of Subjects in 41 CFR Part 8

Government procurement, small business.

Approved: October 7, 1982.

Robert P. Nimmo,

Administrator.

PART 8-1—GENERAL

New § 8-1.1250 is added to 41 CFR Part 8-1 to read as follows:

§ 8-1.1250 Ethics in Government Act.

(a) *Solicitation provisions.* The following certification will be made a part of all solicitations and requests for proposals anticipated to result in contracts exceeding $10,000:

Certification for the Ethics in Government Act

The offeror certifies that in developing a proposal in response to the solicitation of this contract, he/she did not utilize the services of any former Veterans Administration employee acting in violation of Title V of the Ethics in Government Act, 18 U.S.C. 207. That law provides that:

(a) A former Veterans Administration employee who, as such an employee, personally and substantially participated in a particular procurement process, is prohibited from appearing before the agency on behalf of an offeror responding to a solicitation resulting from that process and from making any contact with the agency on behalf of the offeror with intent of influencing action related to the solicitation;

(b) A former Veterans Administration employee who, during the last year as such an employee, was officially responsible for a particular procurement process, is prohibited, for two years after leaving the Veterans Administration, from appearing before the agency on behalf of an offeror responding to a solicitation resulting from that process and from making any contact with the agency on behalf of the offeror with the intent of influencing action related to the solicitation;

(c) Any former top-level Veterans Administration employee (i.e., executive-level employee; employee paid at the rate of GS-17 or above if designated pursuant to 5 CFR 737.25(b); and SES employee if designated pursuant to 5 CFR 737.25(b)) who, as such an employee, personally and substantially participated in a particular procurement process, is prohibited, for a period of two years, from representing, aiding, consulting, or assisting an offeror by presence before the Government at any formal or informal appearance related to that procurement process:

(d) For a period of one year, any former top-level employee of the Veterans Administration (as described in the preceding paragraph) is prohibited from appearing before the Veterans Administration on behalf of any offeror responding to a contract solicitation and is prohibited from making any oral or written communications with the Veterans Administration on behalf of such an offeror, with the intent of influencing action related to a contract.

(b) *Contracting officer responsibility.* If a contracting officer receives any information which he/she believes constitutes a possible violation of 18 U.S.C. 207, or if a potential bidder requests clarification regarding the bidder's compliance under the Ethics in Government Act, the contracting officer shall transmit that information expeditiously to the Designated Ethics Official of the VA. The address of the Designated Ethics Official is: Assistant General Counsel (023), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. The Official shall act upon that information in accordance with the VA administrative enforcement procedures for that section. Persons or organizations who refuse to provide the certification required above shall be declared nonresponsible by the contracting officers.

(c) Although the clause specified in paragraph (a) of this section is not required for procurements of less than $10,000, the Ethics in Government Act does apply to such small purchases and the contracting officer will be alert to the requirements of the Act. The clause may be used for purchases of less than $10,000 at the discretion of the contracting officer.

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 82-28403 Filed 10-14-82; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-253, RM-4081]

FM Broadcast Station in Seabrook, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first FM channel to Seabrook, Texas, in response to a petition filed by the Spanish Aural Services Company.

DATE: Effective December 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 30, 1982.

Released: October 8, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Seabrook, Texas), BC Docket No. 82-253 RM-4081.

1. The Commission has under consideration the *Notice of Proposed Rule Making,* 47 Fed. Reg. 22987, published May 26, 1982, proposing to assign Channel 221A to Seabrook, Texas, as its first FM assignment. The *Notice* was issued in response to a petition filed by The Spanish Aural Services Company ("petitioner"). Supporting comments were filed by the petitioner reaffirming that it will apply for the channel, if assigned. C.R. Crisler submitted comments on behalf of Margaret Kay Sandlin (prospective applicant for Channel 221A at Bay City, Texas).

2. Sandlin's comments focus on the mileage separation to the proposed Bay City station operating on Channel 221A. According to Sandlin, Seabrook is located on the western edge of Galveston Bay, which means that the transmitter site for a Seabrook station would have to be located to the west of Seabrook and in the direction of Bay City. Sandlin states that she is not opposed to the proposed assignment at Seabrook, provided it is not short-spaced.

3. After consideration of the proposal and comments in this proceeding, we have concluded that the proposed assignment would serve the public interest and provide Seabrook with its first FM assignment.

4. In the *Notice,* we indicated that the assignment of Channel 221A to Seabrook was contingent on Station KYND (FM), Pasadena, Texas, changing its operating facility from Channel 223 to Channel 225 as was ordered in BC Docket 81-233. Station KYND (FM) has taken steps toward switching to Channel 225. However, it is awaiting construction of a tower at another site which is to accommodate several Houston stations. Thus, although we are granting the assignment of Channel 221A to Seabrook, its availability is dependent upon the prior switch of Station KYND to Channel 225.

5. As for the potential short-spacing to Bay City, we note that two applications are pending there. Based on the sites applied for at Bay City, we believe that there is a sufficient area around Seabrook that can accommodate a non-short spaced transmitter. In any event, this matter can be adequately treated at the application stage.

6. In view of the foregoing and pursuant to the authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective December 7, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with respect to the following community:

City	Channel No.
Seabrook, Texas	221A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-28411 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-322; RM-4105

Noncommercial Educational FM Stations in Robstown, Texas Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 208A to Robstown, Texas, in response to a petition filed by the Robstown Independent School District, as a first noncommercial educational channel.

DATE: Effective December 8, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 29, 1982.

Released: October 8, 1982.

In the matter of amendment of § 73.504(a), Table of Assignments, Noncommercial Educational FM Stations (Robstown, Texas), BC Docket No. 82-322 RM-4105.

1. The Commission has under consideration a *Notice of Proposed Rule Making,* 47 FR 29289, published July 6, 1982, proposing the assignment of Channel 208A to Robstown, Texas, for noncommercial educational use as that community's first noncommercial educational FM assignment. The proposal was made in response to a petition filed by the Robstown Independent School District ("petitioner"). Petitioner filed comments in support of the proposal and reaffirmed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No oppositions to the proposal were received.

2. Mexican concurrence has been received.

3. The Commission has determined that the public interest would be served by assigning Channel 208A to Robstown, Texas, to provide for a first local noncommercial educational FM service to that community.

4. Accordingly, pursuant to the authority contained in Section 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective December 8, 1982, § 73.504(a) of the Commission's rules is amended with respect to the following community:

City	Channel No.
Robstown, Texas	208A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-28409 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-360; RM-4115]

TV Broadcast Station in Fajardo, Puerto Rico Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 34 to Fajardo, Puerto Rico, in response to a petition filed by Michael L. Carter and Hector Nicolau. The channel could provide a second local commercial TV station.

DATE: Effective December 7, 1982

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: September 30, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Fajardo, Puerto Rico), BC Docket No. 82-360, RM-4115.

1. The Commission has under consideration the *Notice of Proposed Rule Making,* 47 FR 31019, published July 16, 1982, which invited comments on a proposal to assign UHF television Channel 34 to Fajardo, Puerto Rico, as its second commercial television assignment. The *Notice* was in response to a petition filed by Michael L. Carter and Hector Nicolau ("petitioners"). Petitioners reaffirmed their interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria. No oppositions to the proposal were received.

2. Fajardo (pop. 18,249)[1], in the Municipio of Fajardo (pop. 23,032), is located approximately 30 miles east-southeast of San Juan, Puerto Rico. Fajardo has two TV channels—Channel 13 has a construction permit issued for Station WSTE and Channel *40 is unoccupied.

3. In their comments in support of the proposal, petitioners incorporated by reference the information set out in the *Notice* demonstrating the need for a second commercial television assignment at Fajardo.

4. We believe that the petitioners have adequately demonstrated the need for a second commercial television assignment to Fajardo, and that the public interest would be served by assigning UHF television Channel 34 to that community.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective December 7, 1982, the Television Table of Assignments, § 73.606(b) of the rules is amended with respect to the community listed below:

City	Channel No.
Fajardo, Puerto Rico	13+, 34, and *40.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-28410 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population data are taken from the 1970 U.S. Census.

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 850

Coast Guard—National Transportation Safety Board Marine Casualty Investigations

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: The board by this revision is incorporating into Part 850 the provisions of an NTSB-Coast Guard agreement concerning the investigation of marine accidents involving Coast Guard vessels or safety functions. These revisions are part of an ongoing review of regulations and the desire to align investigative responsibilities to best serve the public. These changes will avoid duplicative investigative efforts and will eliminate the perception that the joint regulations improperly allow Coast Guard to investigate itself.

EFFECTIVE DATE: October 14, 1982.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, Washington, D.C. 20594 (202-382-6540).

SUPPLEMENTARY INFORMATION: Part 850 (49 CFR) and Part 4.4 (46 CFR) set forth the joint regulations the NTSB and the Coast Guard follow in investigating marine casualties. As part of an ongoing review of those regulations and the desire to align investigative responsibilities so as to best serve the public interest, the NTSB and the Coast Guard on September 28, 1981, executed a Memorandum of Understanding concerning changes in the joint regulations. Specifically, the Memorandum provides that:

"1. NTSB will investigate all collisions between a Coast Guard vessel and a nonpublic vessel involving at least one fatality or $75,000 in property damage.

2. When mutually agreed by the two agencies, NTSB will investigate any public vessel/nonpublic vessel casualty resulting in at least one fatality or $75,000 in property damage or any major marine casualty which involves significant safety issues relating to Coast Guard safety functions, e.g., SAR, ATON, VTS, marine inspection, etc.

3. The accident investigation roles of the NTSB and the CG with respect to all other accidents within the scope of the joint regulations will continue unchanged for the interim."

It is believed that these changes will further a goal of the joint regulations to avoid duplicative investigatory effort and, at the same time, eliminate any perception by the public that the joint regulations improperly allow the Coast Guard to investigate itself where its vessels or safety functions are involved in an accident. Under the Memorandum the Coast Guard, with respect to such accidents, will act in a supporting role to the NTSB's investigation.

As the revisions herein relate to rules of agency practice or procedure, notice of proposed rulemaking under 5 U.S.C. 553 is not required.

List of Subjects in 49 CFR Part 850

Investigations, Marine Safety.

PART 850—COAST GUARD—NATIONAL TRANSPORTATION SAFETY BOARD MARINE CASUALTY INVESTIGATIONS

49 CFR Part 850 is hereby amended as follows:

1. Section 850.1 is revised to read as follows:

§ 850.1 Purpose.

This part prescribes the joint regulations of the National Transportation Safety Board and the Coast Guard for the investigation of marine casualties.

2. In § 850.10, paragraph (b)(2) is revised and paragraphs (b)(3) and (b)(4) are added to read as follows:

§ 850.10 Preliminary investigations by the Coast Guard.

(b) * * *

(2) The casualty involves a public and a nonpublic vessel and at least one fatality or $75,000 in property damage; or

(3) The casualty involves a Coast Guard and a nonpublic vessel and at least one fatality or $75,000 in property damage; or

(4) The casualty is a major marine casualty which involves significant safety issues relating to Coast Guard safety functions, e.g., search and rescue,

aids to navigation, vessel traffic systems, commercial vessel safety, etc.

3. Section 850.15 is revised to read as follows:

§ 850.15 Marine casualty investigation by the Board.

(a) The board may conduct an investigation under the Act of any major marine casualty or any casualty involving public and nonpublic vessels. Where the Board determines it will convene a hearing in connection with such an investigation, the Board's rules of practice for transportation accident hearings in 49 CFR Part 845 shall apply.

(b) The board shall conduct an investigation under the Act when:

(1) The casualty involves a Coast Guard and a nonpublic vessel and at least one fatality or $75,000 in property damage; or

The Commandant and the Board agree that the Board shall conduct the investigation, and the casualty involves a public and a nonpublic vessel and at least one fatality or $75,000 in property damage; or

(3) The Commandant and the Board agree that the Board shall conduct the investigation, and the casualty is a major marine casualty which involves significant safety issues relating to Coast Guard safety functions.

4. Section 850.25 is revised to read as follows:

§ 850.25 Coast Guard marine casualty investigation for the Board.

(a) If the Board does not conduct an investigation under § 850.15(a), (b)(2) or (3), the Coast Guard, at the request of the Board, may conduct an investigation under the Act unless there is an allegation of Federal Government misfeasance or nonfeasance.

(b) The Board will request the Coast Guard to conduct an investigation under paragraph (a) of this section within 48 hours of receiving notice under § 850.10(c).

(c) The Coast Guard will advise the Board within 24 hours of receipt of a request under paragraph (b) of this section whether the Coast Guard will conduct an investigation under the Act.

(49 U.S.C. 1903 (a)(1)(E))

Signed at Washington, D.C., on this fourth day of October 1982.

Patricia A. Goldman,

Acting Chairman.

[FR Doc. 82-28330 Filed 10-14-82; 8:45 am]

BILLING CODE 4910-58-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing With Endangered Status and Critical Habitat for the Monito Gecko

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that the Monito gecko, *Sphaerodactylus micropithecus*, known only from Isla Monito in the Commonwealth of Puerto Rico, is an Endangered Species under provisions of the Endangered Species Act of 1973, as amended. This action is being taken because of the extremely small population size coupled with suspected predation by rats. In addition, the Service determines that the entire island of Monito be declared Critical Habitat. All provisions of Sections 7 and 9 of the Act would now apply to this species.

DATES: This rule becomes effective on November 15, 1982.

ADDRESSES: Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Washington, D.C. 20240. Comments and materials relating to the rule are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (703/235-2771) or the Endangered Species Staff of the Service's Regional Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303 (404/221-3583).

SUPPLEMENTARY INFORMATION: *Background.* The Monito gecko was discovered on Isla Monito, 5 km. northwest of Mona Island in the Mona Passage, in May of 1974. Until recently, only one adult had been collected in spite of intensive survey by several investigators. (Schwartz, 1977) In addition, an egg was collected at the same time which later hatched in the laboratory; both specimens were deposited at the Florida State Museum. Dr. Howard W. Campbell, who collected the gecko and egg during a two day visit, reported that "An ecological factor of considerable concern on Monito is the dense population of introduced rats. No quantitative estimate is available for their numbers, but it should be noted that, at night, one is never out of sight of at least one foraging rat and frequently several will be in sight at any given moment. The apparent low number of *Ameiva* (a type of lizard) and *Sphaerodactylus* might be the result of rat predation. If the *Sphaerodactylus*, turns out to be an endemic species or subspecies and if its numbers are as low as our data indicate, a rat removal program may be necessary for its preservation." The rat involved is *Rattus rattus*.

Previous surveys of Monito had not revealed the presence of any lizards of the genus *Sphaerodactylus*, which are normally abundant members of a herpetofauna when present (Rolle et al., 1964). Schwartz (1977) described the gecko as a distinct species and noted that the Monito *Sphaerodactylus* was difficult to ally with any geographically proximate species, including *S. monensis* residing only 5 km. away. Monito is a very small island (only about 300 x 500 meters) with steep sides; the presence of an endemic lizard so distinct from nearby forms makes the island and its lizard unique. The rarity of this species, coupled with an abundance of rats (which are known predators on lizards and their eggs), is of concern to herpetologists. Kepler (1978), in his studies of Monito's sea birds, also noted an abundance of rats on the island and speculated that the absence of Audubon's shearwater on Monito might be the result of rat predation.

On August 24-25, 1982, personnel from the Service and the Puerto Rico Department of Natural Resources, using transect survey techniques, searched for the Monito gecko. A total of 56 man hours were spent on the island during the course of the survey and the entire island was thoroughly covered. A total of 18 geckos were observed and eight were captured and photographed; four were preserved and have been deposited in the collections of the U.S. National Museum of Natural History and the Puerto Rico Department of Natural Resources. Geckos were concentrated in two populations, one on the northeast cliff and the other in the northwest. Thus, the survey confirmed that geckos are rare on Monito, unlike *S. monensis* which is abundant on nearby Mona. Details of this survey are in Dodd (1982). A total of 24 rats were also observed during the survey and they were active island wide at all times of day.

On October 22, 1980, the Service proposed Endangered status and Critical Habitat for this species (see the **Federal Register** 45 FR 70192-70195, for details).

In conjunction with the proposal for Endangered status and Critical Habitat, the Service held informal public meetings in Mayaguez, Puerto Rico, on December 2, 1980, and in San Juan on December 3, 1980, to explain the proposal, answer public questions, and to solicit additional information on the biology of the lizard and the economic effects of a Critical Habitat designation on federally authorized and funded projects in the area. All public comment periods were closed on January 21, 1981.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291. Monito Island is a small (300 m. x 500 m.) island located 5 km. northwest of Mona Island almost midway between Puerto Rico and the Dominican Republic. It is a very steep-walled island and, as such, is virtually inaccessible. The island is owned by the Commonwealth of Puerto Rico and is managed as a reserve for seabirds. There are no federally authorized or funded projects ongoing or planned for Monito. Therefore, it is not anticipated that such a designation for the Monito gecko should have any annual economic effects. Because of the remoteness of Monito and its present management as a Natural Reserve by the Commonwealth of Puerto Rico, no increased costs and prices are to be expected. No commercial trade exists for the species.

Because this rule was proposed before January 1, 1981, a determination of effects on small entities is not required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507).

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the list of Endangered and Threatened Wildlife and Plants. In the October 22, 1980, **Federal Register** (45 FR 70192–70195) the Service proposed to list the Monito gecko (*Sphaerodactylus micropithecus*) as Endangered with Critical Habitat. A total of 12 comments were received during the public comment period, two of which were from Commonwealth agencies and one from a Federal agency.

Mr. Fredrick E. Rushford responded on behalf of Governor Carlos Romero Barcelo and acknowledged receipt of notification of the proposal but offered no comments on it. Dr. F. V. Soltero Harrington (then Secretary, Department of Natural Resources) stated that the "Department feels that this designation is a necessary step that must be taken to protect this species" and that no socio-economic impact was foreseen in designating Monito as Critical Habitat.

Mr. H. R. Richard (U.S. Navy) noted that the Navy had no holdings on Monito and had no objection to either the listing or the Critical Habitat designation.

Of the remaining comments, six expressed unqualified support based on information contained in the original proposal. One additional comment expressed support stating that considering the small size of the island, the rat problem is a menace to the gecko but man's activities probably have not contributed to the present status of the species. The Service agrees. The commenter worried however, that the proposal could be interpreted as an attempt to thwart military attempts to use Monito as a target. The Service notes, however, that Monito is owned by the Commonwealth of Puerto Rico which is opposed to Monito being used for such purposes. In any case contacts with military concerns indicate that Monito is not being considered for bombing practice.

Dr. Howard Campbell, who collected the only specimens, stated:

> *Sphaerodactylus* are generally abundant lizards in all habitats in which they occur throughout the Caribbean and Latin America. On Monito Island, intensive collection by several experienced herpetologists, on several different trips, has resulted in only one successful collection of this species. I, and several others who have collected the area and who were with me on the original trip when I collected the type specimens, were quite convinced that the scarcity of this species was an artifact of the intense predation on the secies by the black rat on the island. Small land snails and other prey-sized species of invertebrates and vertebrates on the island in this area, also were very scarce and we suspect that the general scarcity of small invertebrates and vertebrates on the island is due to rat predation. The species may turn out to be somewhat more abundant than present knowledge indicates, however, the continual pressure by predation by these rats and the potential for habitat damage on such a small piece of habitat connot be disregarded, and I fear with all these considerations that the species should be listed as threatened and the island be established as Critical Habitat.

He concluded:

> It is critical that additional work be conducted to determine in fact whether the species is as rare as presently indicated and if it is in any immediate threat by predation from the black rat. If the black rat predation is as severe as present indications suggest then some control program should be initiated on the island.

The Service notes that the August, 1982, survey did indeed confirm the rarity of this species.

Only one comment from Dr. Albert Schwartz opposed the listing, stating that although he had no personal knowledge of the habitat of the gecko or the ecology of Monito, the gecko may have been merely overlooked because of lack of interest or collecting techniques. He also stated that he doubted rats could have any effect on the gecko or its eggs (because of their small size). He did concede that bombing the island could have detrimental impacts and that rat removal "might" make a difference. He concluded that *S. micropithecus* is probably neither endangered nor threatened by present circumstances and that he remained "unconvinced" of the species' rarity. The Service disagrees and points out that those who have collected the gecko and are familiar with the ecology of Monito, including the August, 1982 survey team (Dodd, 1982) and biologists with the Puerto Rico Department of Natural Resources, believe that the species is threatened with extinction. The Service does acknowledge the need for additional work on the effects of rat predation but believes that competent collectors have visited the island. The gecko has not been overlooked merely because of lack of interest or lack of knowledge of collecting techniques.

The summary of factors affecting the species, as required by Section 4(a) of the Act and published in the **Federal Register** of October 22, 1980 (45 FR 70192–70195) are reprinted below. These factors are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In the past, Monito has been considered as a target for Naval bombing practice. While there are no such plans at present, any major alteration of Monito could be detrimental to the continued survival of this species.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* While there are no data on population size, the rarity of this species indicates that removal of specimens could be detrimental.

3. *Disease or predation.* The presence of large numbers of introduced rats on Monito is thought to be the major factor in the current precarious status of this species.

Rats are predaceous and are known to feed on both lizards and lizard eggs.

4. *The inadequacy of existing regulatory mechanisms.* The Monito gecko currently receives no protection.

5. *Other natural or man-made factors affecting its continued existence.* None known.

Effects of the Final Rule

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above, which pertain to Endangered species, are found at Section 17.21 of Title 50, and are summarized below.

With respect to the Monito gecko, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the **Federal Register** of September 26, 1975 (40 FR 44412, codified at 50 CFR 17.22 and 17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Section 7(a) of the Act provides (in part):

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 4 of the Act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to an "agency action") is not likely to jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. This final rule would require Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Monito gecko but also to insure that their actions are not likely to result in the destruction or adverse modification of this Critical Habitat which has been determined by the Secretary.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that, since the Monito gecko is known to occur only on tiny Monito Island, this area should be designated Critical Habitat. If this area were to be destroyed, the gecko would become extinct. in addition, the rat problem is such that the island needs to be carefully managed to insure the continued existence of the lizard.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be constituent elements of the habitat of the Monito gecko.

1. Cover. The habitat for the Monito gecko must provide sufficient cover to hide from predators and from unfavorable enviromental conditions.

2. Disturbance. The habitat must be spared from extreme disturbance, such as from bombing practice as was proposed in the past. This is not being considered at present.

3. Predators. The habitat must be free from introduced predators, such as the black rat.

Section 4(f)(4) of the Act requires, to the maximum extent practicable that any determination of Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects activities authorized, funded, or carried out by Federal agencies. At this time, no Federal activities are known which would be affected by this action.

Examples of activities that could be detrimental to the environment of this species and lead to further reduction of its range include:

1. The use of Monito as a bombing range as has been considered in the past.

2. The physical alteration of the island, including the mining of guano.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis and believes at this time that economic and other impacts of this section are not significant in the foreseeable future. The Service is notifying Federal and Commonwealth agencies that may have jurisdiction over the land and water under consideration in this action.

National Environmental Policy Act

A final environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, implemented at 40 CFR 1500–1508.

These determinations are discussed in more detail in a Determination of Effects which has been prepared by the U.S. Fish and Wildlife Service.

References

Dodd, C. K., Jr, 1982. A report on the status and distribution of the Monito gecko, *Sphaerodactylus micropithecus* Schwartz. Report to U.S. Fish and Wildlife Service, Washington D.C. 7pp.

Kepler, C. B. 1978. The breeding ecology of sea birds on Monito Island, Puerto Rico. Condor 80:72–87.

Rolle, F. J., H. Heatwole, R. Levins, and F. Torres. 1964. Faunal notes on Monito Island, Puerto Rico. Carib. J. Sci. 4(1):321–322.

Schwartz, A. 1977. A new species of *Sphaerodactylus* (Sauria, Gekkonidae) from Isla Monito, West Indies. Proc. Biol. Soc. Wash. 90(4):985–992.

Author

The primary author of this rule is Dr, C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the Monito gecko herein considered to the list in § 17.11(h), alphabetically under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Gecko, Monito	Sphaerodactylus micropithecus.	U.S.A. (Puerto Rico).	Entire	E	124	17.95(c)	NA.

2. Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is further amended as set forth below:

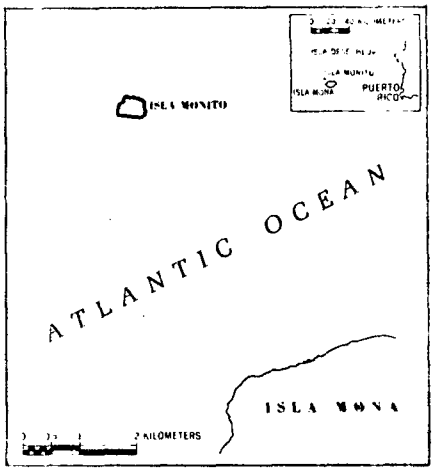
§ 17.95 [Amended]

(a) Section 17.95(c), Reptiles, is amended by adding Critical Habitat of the Monito gecko before that of the Culebra Island giant anole as follows:

MONITO GECKO

Sphaerodactylus micropithecus

Puerto Rico—Isla Monito, entire island.



Dated: September 22, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-28355 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 47, No. 200
Friday, October 15, 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 68

Proposed Revisions to the United States Standards for Rough Rice, Brown Rice for Processing and Milled Rice

AGENCY: Federal Grain Inspection Service [1], USDA.
ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice. Changes are being proposed to revise the standards to better reflect current milling and marketing conditions and practices. Comments are solicited from interested parties. FGIS proposes that the U.S. Standards for Rough Rice remain as currently written and that changes be made to the U.S Standards for Brown Rice for Processing and Milled Rice.

The changes proposed to the U.S. Standards for Brown Rice for Processing would allow the factors for red rice, damaged kernels, chalky kernels, and other types to be determined on a milled rice basis rather than on the unprocessed portion of the original sample of brown rice. This action would provide better information on factor results to be expected following the intended processing of brown rice to milled rice. It is also proposed that the definition of red rice be amended to reflect the determination of this factor following milling of the sample.

The changes proposed to the U.S. Standards for Milled Rice would establish definitions for related and unrelated foreign material; establish grade limits for related material, unrelated material and total foreign material for each class of milled rice; revise the definition of coated rice; and amend the definition of milled rice. These actions are proposed to better reflect current trade practices and facilitate the marketing of milled rice.

DATE: Written comments must be submitted on or before December 13, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Unit, USDA, FGIS, Room 1636 South Building, 1400 Independence Avenue, SW., Washington, DC 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: The U.S. Standards for Rough Rice, the U.S. Standards for Brown Rice for Processing, and the U.S. Standards for Milled Rice were established under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*; the Act). Pursuant to section 203(c) of the Act (7 U.S.C. 1622 (c)), the Administrator is authorized to develop and improve standards for all assigned agricultural commodities.

Executive Order 12291

This proposed action has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1521-1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, FGIS Administrator, has determined that the proposed action 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 U.S.C. 601 *et seq.*) because there are not a substantial number of rice millers considered small entities as defined by that Act.

Standards Review

The review of the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice included a determination of the continued need for the standards; a review of changes in marketing factors and functions affected by the standards; and a determination of the potential for improving the standards and their application through the incorporation of grading factors or tests which better indicate quality attributes. The objective of the review was to assure that the standards continued to serve the needs of the market to the greatest possible extent. Although changes are being proposed at this time, FGIS will continue to study and evaluate the standards to meet the future needs of the industry.

On March 31, 1981, a request for public comment on specific issues with respect to the standards for rice which had been identified by interested parties was published in the **Federal Register** (46 FR 19699). The prenotice of review of existing regulations identified the following items for each standard which were to be considered by FGIS in the review process:

U.S. Standards for Rough Rice

1. Develop and incorporate into the standards a revised milling yield appraisal to reflect improvements in commercial milling equipment.

In August, 1980, milling yield appraisal methods were revised for short and medium grain rough rice. Because the changes made were well received for these California classes of rice, input was solicited for the purpose of determining whether revised milling yield appraisal methods were needed for southern long, medium, and short grain rice and whether these appraisal methods should be incorportated into the standards. No comments were received on the prenotice of March 31, 1981, However, further information from and discussions with this rice industry indicated that the current procedures are considered a fair evaluation of the expected quality of the rice and that further revision of milling yield appraisal methods would not be necessary at this time. It is proposed that the standards for rough rice remain as presently written.

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

U.S. Standards for Brown Rice for Processing

1. Revise the standards so that grading factors are determined on a milled portion of the sample.

Four comments were received supporting a revision of the brown rice for processing standards so that grade factors are determined on a milled portion of the sample. No comments were received opposing the concept.

Determining the percentages of red rice, damaged kernels, chalky kernels, and other types on a milled rice basis will provide more accurate information on the quality to be expected following processing of brown rice to milled rice. Accordingly, FGIS is proposing a change to § 68.253 *Basis of Determination* so that these factors are determined on a milled rice portion of the brown rice sample along with other determinations currently made on the milled portion. However, the factors of paddy kernels, seeds, objectionable seeds, broken kernels removed by a 6 plate or 6½ inch sieve and well-milled kernels, will continue to be determined on a brown rice basis because they are indicators of the extent of processing that may be necessary prior to milling the rice.

Further, FGIS also proposes to amend § 68.261 *Grade and grade requirements for the classes of Brown Rice for Processing,* so that the limits for red rice, damaged kernels, chalky kernels, and other types are the same as the limits currently in the U.S. Standards for Rough Rice. These grade factors in the rough rice standards are currently determined on a milled rice basis. The rough rice grade factor tolerances have been accepted and understood by the rice industry as having a good correlation with milled rice quality.

It is also proposed that § 68.252(k), the definition of red rice be amended to reflect the determination of this factor on a milled rice basis. The proposed wording of the amended definition coincides with the definition of red rice in the rough rice and milled rice standards. Red rice in these standards is currently determined on a milled rice basis.

2. Establish standards for brown rice for direct human consumption in addition to the standards for brown rice for processing.

Three comments were received that supported the development of edible brown rice standards. FGIS is now gathering information regarding the possible development of an edible brown rice standard; thus a proposal is not being made at this time.

U.S. Standards for Milled Rice

1. Provide separate grade limits and factors for parboiled milled rice.

Consideration was given to establishing separate standards for parboiled rice because some grade determining factors shown in the milled rice standards are not applicable to parboiled rice. It was anticipated that separate standards for parboiled milled rice would simplify inspection procedures and increase understanding of the standards.

Two comments were received in opposition to this change and one commentor supported a change. With further information and discussions with industry, FGIS determined that, to avoid buyer confusion and terminology problems associated with letters of credit, a proposal to establish separate grade standards for parboiled milled rice should not be made at this time.

2. Revise foreign material grade limits to provide for identification of related and unrelated foreign material.

Three comments received were in favor of the establishment of related and unrelated foreign material grade limits in milled rice. One comment opposed any change in the foreign material grade limits as it could lower the quality of U.S. rice. Establishing grade limits for related and unrelated foreign material would allow rice with a small amount of related foreign material (e.g., up to 0.4 percent in U.S. No. 6 milled rice) to retain its grade rather than being graded U.S. Sample grade as it would currently for exceeding 0.1 percent total foreign material. FGIS feels that this will not significantly reduce the quality of milled rice, and therefore is proposing the establishment of such grade limits and specific definitions for related and unrelated foreign material.

FGIS proposes that the embryo (germ) and bran of the rice be defined as related material. Embryo and bran material dislodge in handling milled rice; are edible material; and are presently grade limiting as described above, particularly in rice shipments milled to reasonably well milled and lightly milled degree. In these lower milling degrees the likelihood of bran and germ material dislodging from rice kernels increases and loose bran and germ are more difficult to separate. Thus, grade tolerances for related material are proposed to allow increasing amounts of related material for decreasing degrees of milling.

In the proposal, rice hulls, awns, straw, dirt and other extraneous matter will be considered unrelated material. Grade limits for unrelated material are proposed at a reasonably strict level as this material is inedible and more easily removed in processing milled rice.

It is proposed to revise § 68.302(f), the definition of foreign material, to define related and unrelated foreign material. It is also proposed to amend § 68.310, Grades and grade requirements for the classes Long-Grain Milled Rice, Medium-Grain Milled Rice, Short-Grain Milled Rice, and Mixed Milled Rice, § 68.311, Grades and grade requirements for the class Second Head Milled Rice, § 68.312, Grades and grade requirements for the class Screenings Milled Rice, and § 68.313, Grades and grade requirements for the class Brewers Milled Rice, to provide for the inclusion of the related and unrelated material and total foreign material grade limits. Also it is proposed that a format change be made to the table in § 68.310 for clarification and uniformity considerations.

3. Remove the standards for the class Second-head Milled Rice.

Comments were solicited in the March, 1981 prenotice for the purpose of determining whether sufficient use was being made of this class of milled rice to warrant its retention as a separate class. No comments were received favoring the deletion; but four commentors stated there still was sufficient trade to retain this class. Therefore, FGIS is not proposing removal of the standards for Second-head Milled Rice.

4. Additional proposed changes.

Two of the comments received also recommended that a revision be made to the definition for coated milled rice. The current definition (§ 68.315) specifically refers to coated milled rice as rice that has been coated all or in part with glucose and talc. There is concern in the rice industry about the restriction of coated rice to be rice which is coated with glucose and talc. Other commercially available substances may be safe and suitable in accordance with commercially accepted practices and the Federal Food, Drug and Cosmetic Act and other Federal laws. Therefore, FGIS proposes that the definition be revised to generally describe coated milled rice rather than specifically mention additives used for coating.

This proposal also includes revision to the definition of milled rice (§ 68.301). A portion of § 68.301, *Definition of Milled Rice,* specifically the words "and a part of the germs", was temporarily suspended from the definition on August 1, 1980 for a period of one year. This action was announced in the July 9, 1980 **Federal Register** (45 FR 46332). The reason for the suspension was to allow FGIS to conduct a study to ascertain the effects of changing the milled rice definition. The suspension was

extended on August 4, 1981 (46 FR 39608). The current suspension action does not expire until final revisions are made to the definition of milled rice.

The purpose of the initial suspension action was to facilitate the marketing of the lower milling degrees of milled rice. The requirement that a part of the germ must be removed from the milled rice was grade limiting in U.S. Nos. 5 and 6 grades. The germ requirement caused rice millers to mill rice more severely than the grade requirement for milling degree. This resulted in added milling costs to rice millers. FGIS determined from its study that the suspension action allowed rice millers to more effectively mill and market U.S. Nos. 5 and 6 grades, and that a uniform, accurate, and efficient determination of milled rice may be made without a requirement that a part of germs be removed from the rice kernels. Therefore it is proposed that the definition of milled rice be amended to delete the words, "and a portion of the germs".

List of Subjects in 7 CFR Part 68

Administrative practices and procedures—FGIS, Agricultural commodities, and Export.

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Subpart D—United States Standards for Brown Rice for Processing [1] Terms Defined

Accordingly, it is proposed that Subpart C—United States Standards for Rough Rice not be amended; Subpart D—United States Standards for Brown Rice for Processing be amended by amending § 68.252(k), § 68.261 and by revising § 68.253; and Subpart E—United States Standards for Milled Rice be amended by revising § 68.301 and removing footnote 2; by revising § 68.302(f); by revising § 68.310, 68.311, 68.312, and 68.313; and by revising § 68.315, paragraph (a), to read as follows:

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or other Federal Laws.

* * * * *

§ 68.252 Definition of other terms.

* * * * *

(k) *Red rice.* Whole or large broken kernels of rice on which there is an appreciable amount of red bran.

* * * * *

Principles Governing Application of Standards

§ 68.253 Basis of determination.

The determination of red rice, damaged kernels, kernels damaged by heat, heat-damaged kernels, chalky kernels, other types, parboiled kernels in nonparboiled rice, and the special grade Parboiled brown rice for processing shall be on the basis of the brown rice for processing after it has been milled to a well-milled degree. All other determinations shall be on the basis of the original sample. Mechanical sizing of kernels shall be adjusted by handpicking as set forth in the Rice Inspection Handbook or by any method which gives equivalent results.

§ 68.261 Grade and grade requirements for the classes of Brown Rice for Processing.

(See also § 68.263.)

Grade	Maximum limits of—										
	Paddy kernels		Seeds and heat-damaged kernels			Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels [1]		Broken kernels removed by a 6 plate or a 6½ sieve [2] (percent)	Other types [3] (percent)	Well-milled kernels (percent)
	(Percent)	(Number in 500 grams)	Total (singly or combined) (number in 500 grams)	Heat-damaged kernels (number in 500 grams)	Objectionable seeds (number in 500 grams)		in long-grain rice (percent)	in medium or short-grain rice (percent)			
U.S. No. 1		20	10	1	2	0.5	1.0	2.0	1.0	1.0	1.0
U.S. No. 2	2.0		40	2	10	1.5	2.0	4.0	2.0	2.0	3.0
U.S. No. 3	2.0		70	4	20	2.5	4.0	6.0	3.0	3.0	10.0
U.S. No. 4	2.0		100	8	35	4.0	6.0	8.0	4.0	5.0	10.0
U.S. No. 5	2.0		150	15	50	6.0	10.0	10.0	6.0	10.0	10.0

U.S. Sample grade:

U.S. sample grade shall be brown rice for processing which (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 14.5 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.2 percent of related material or more than 0.1 percent of unrelated material; (f) contains live weevils or other live insects; or (g) is otherwise of distinctly low quality.

[1] For the special grade parboiled brown rice for processing, see § 68.263(a).
[2] Plates should be used for Southern production rice and sieves should be used for Western production rice, but any device or method which gives equivalent results may be used.
[3] These limits do not apply to the class mixed brown rice for processing.

Subpart E—United States Standards for Milled Rice;[1] Terms Defined

§ 68.301 Definition of milled rice.

Whole or broken kernels of rice (*Oryza sativa L.*) from which the hulls and at least the outer bran layers have been removed and which contain not more than 10.0 percent of seeds, paddy kernels, or foreign material, either singly or combined.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or other Federal Laws.

§ 68.302 Definition of other terms.

* * * * *

(f) *Foreign material.* Foreign material includes:

(1) Related material. Embryo and bran layers that have dislodged from rice kernels.

(2) Unrelated material. All matter other than rice, related material, and seeds.

* * * * *

§ 68.310 Grades and grade requirements for the classes Long-Grain Milled Rice, Medium-Grain Milled Rice, Short-Grain Rice, and Mixed Milled Rice.

(See also § 68.315.)

Grade	Maximum limits of—														Color requirements [1]	Milling requirements (minimum) [4]
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels [1]		Total (percent)	Broken kernels			Other types [3]		Foreign material				
	Total (number in 500 grams)	Heat-damaged kernels and objectionable seeds (number in 500 grams)		In long-grain rice (percent)	In medium- or short-grain rice (percent)		Removed by a 5 plate [2] (percent)	Removed by a 6 plate [2] (percent)	Through a 6 [2] sieve (percent)	Whole kernels (percent)	Whole and broken kernels (percent)	Related material (percent)	Unrelated material (percent)	Total (percent)		
U.S. No.1	2	1	0.5	1.0	2.0	4.0	0.04	0.1	0.1	.....	1.0	.....	.....	0.1	Shall be white or creamy.	Well milled.
U.S. No. 2	4	2	1.5	2.0	4.0	7.0	0.06	0.2	0.2	.....	2.0	.....	.....	0.1	May be slightly gray.	Well milled.
U.S. No. 3	7	5	2.5	4.0	6.0	15.0	0.1	0.8	0.5	.....	3.0	0.3	0.1	0.3	May be light gray.	Reasonably well milled.
U.S. No. 4	20	15	4.0	6.0	8.0	25.0	0.4	2.0	0.7	.....	5.0	0.3	0.1	0.3	May be gray or slightly rosy.	Lightly milled.
U.S. No. 5	30	25	[5]6.0	10.0	10.0	35.0	0.7	3.0	1.0	10.0	.....	0.4	0.1	.04	May be dark gray or rosy.	Lightly milled.
U.S. No.6	75	75	[5]15.0	15.0	15.0	50.0	1.0	4.0	2.0	10.0	.....	0.4	0.1	0.4	May be dark gray or rosy.	Lightly milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of any of these classes which: (a) does not meet the requirements for any of the grades from No. 1 to U.S. No 6. inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent unrelated or 0.4 percent related foreign material; (f) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

[1] For the special grade Parboiled milled rice, see § 68.315(c).
[2] Plates should be used for southern production rice, and sieves should be used for western production rice; but any device or method which gives equivalent results may be used.
[3] These limits do not apply to the class Mixed Milled Rice.
[4] For the special grade Undermilled Milled Rice, see § 68.315(d).
[5] Grade U.S. No. 6 shall contain not more than 6.0 percent of damaged kernels.

§ 68.311 Grades and grade requirements for the class Second Head Milled Rice.

(See also § 68.315.)

Grade	Maximum limits of—							Color requirements [1]	Milling requirements (minimum) [2]
	Seeds, heat-damaged, and paddy kernels (singly or combined)		Red rice and damaged kernels (singly or combined) (percent)	Chalky kernels [1] (percent)	Foreign material				
	Total (number in 500 grams)	Heat-damaged kernels and objectionable seeds (number in 500 grams)			Related material (percent)	Unrelated material (percent)	Total (percent)		
U.S. No.1	15	5	1.0	4.0	.....	.....	0.1	Shall be white or creamy	Well milled.
U.S. No.2	20	10	2.0	6.0	.....	.....	0.1	May be slightly gray	Well milled.
U.S. No.3	35	15	3.0	10.0	0.3	0.1	0.3	May be light gray	Reasonably well milled.
U.S. No.4	50	25	5.0	15.0	0.3	0.1	0.3	May be gray or slightly rosy	Reasonably well milled.
U.S. No.5	75	40	10.0	20.0	0.4	0.1	0.4	May be dark gray or rosy	Lightly milled.

U.S. Sample grade:

U.S. Sample grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5 inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) contains more than 0.1 percent unrelated or 0.4 percent related foreign material; (f) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (g) is otherwise of distinctly low quality.

[1] For the special grade parboiled milled rice, see § 68.315(c).
[2] For the special grade undermilled milled rice, see § 68.315(d). This limit does not apply to the special grade granulated brewers milled rice.

§ 68.312 Grades and grade requirements for the class Screenings Milled Rice.

(See also § 68.315.)

Grade	Maximum limits of —						Color requirements [1]	Milling requirements (minimum) [2]
	Paddy kernels and seeds			Foreign material				
	Total (singly or combined) (number in 500 grams)	Objectionable seeds (number in 500 grams)	Chalky kernels [1] (percent)	Related material (percent)	Unrelated material (percent)	Total (percent)		
U.S. No. 1 [3,4]	30	20	5.0			0.1	Shall be white or creamy	Well milled.
U.S. No. 2 [3,4]	75	50	8.0			0.1	May be slightly gray	Well milled.
U.S. No. 3 [3,4]	125	90	12.0	0.3	0.1	0.3	May be light gray or slightly rosy	Reasonably well milled.
U.S. No. 4 [3,4]	175	140	20.0	0.3	0.1	0.3	May be gray or rosy	Reasonably well milled.
U.S. No. 5	250	200	30.0	0.4	0.1	0.4	May be dark gray or very rosy	Lightly milled.
U.S. Sample grade:								

U.S Sample grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S No. 1 to U.S. No. 5 inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent unrelated or 0.4 related foregn material; (g) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (h) is otherwise of distinctly low quality.

[1] For the special grade parboiled milled rice see § 68.315(c).
[2] For the special grade undermilled milled rice see § 68.315(d).
[3] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice
[4] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve.

§ 68.313 Grades and grade requirements for the class Brewers Milled Rice.

(See also § 68.315.)

Grade	Maximum limits of —					Color requirements [1]	Milling requirements (minimum) [2]
	Paddy kernels and seeds		Foreign material				
	Total (singly or combined) (percent)	Objectionable seeds (percent)	Related material (percent)	Unrelated material (percent)	Total (percent)		
U.S. No. 1 [3,4]	0.5	0.05			0.1	Shall be white or creamy	Well milled.
U.S. No. 2 [3,4]	1.0	0.1			0.1	May be slightly gray	Well milled.
U.S. No. 3 [3,4]	1.5	0.2	0.3	0.1	0.3	May be light gray or slightly rosy	Reasonably well milled.
U.S. No. 4 [3,4]	3.0	0.4	0.3	0.1	0.3	May be gray or rosy	Reasonably well milled.
U.S. No. 5	5.0	1.5	0.4	0.1	0.4	May be dark gray or very rosy	Lightly milled.
U.S. Sample grade:							

U.S. Sample grade shall be milled rice of this class which: (a) does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; (b) contains more than 15.0 percent of moisture; (c) is musty, or sour, or heating; (d) has any commercially objectionable foreign odor; (e) has a badly damaged or extremely red appearance; (f) contains more than 0.1 percent unrelated or 0.4 percent related foreign material; (g) contains more than 15.0 percent of broken kernels that will pass through a 2⅜ sieve; (h) contains live or dead weevils or other insects, insect webbing, or insect refuse; or (i) is otherwise of distinctly low quality.

[1] For the special grade parboiled milled rice see § 68.315(c).
[2] For the special grade undermilled milled rice see § 68.315(d).
[3] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 3.0 percent of heat-damaged kernels, kernels damaged by heat and/or parboiled kernels in nonparboiled rice.
[4] Grades U.S. No. 1 to U.S. No. 4, inclusive, shall contain not more than 1.0 percent of material passing through a 30 sieve. This limit does not apply to the special grade Granulated brewers milled rice

§ 68.315 Special grades and special grade requirements.

* * * * *

(a) *Coated milled rice.* Coated milled rice shall be milled rice which is coated, in whole or in part, with substances that are safe and suitable [1] and in accordance with commercially accepted practice.

* * * * *

(Secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624)

Dated: September 29, 1982.

Kenneth A. Gilles,

Administrator.

[FR Doc. 82-28329 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-EN-M

[1] Compliance with the provisions of the standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws. Safe and suitable is defined in the regulations issued pursuant to the Federal Food, Drug, and Cosmetic Act at 21 CFR 130.3(d).

Food and Nutrition Service

7 CFR Parts 274 and 282

[Amendment No. 226]

Food Stamp Program; New York City Food Stamp Replacement Issuance Procedures and Rapid Access Reconciliation System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rule would authorize until further notice the authority for operation of New York City's Food Stamp Replacement Authorization to Participate (ATP) Issuance Procedure and Rapid Access Reconciliation System. The Food and Nutrition Services' October 17, 1980, emergency final rules implemented this system as an unfunded demonstration project (45 FR 69169). This system has virtually eliminated ATP losses caused by recipients fraudulently requesting and negotiating replacement ATP's. This proposed rule is necessitated because of the two-year limit that was placed on the demonstration project.

DATE: Comments must be received by November 15, 1982 to be assured of consideration.

ADDRESS: Comments should be submitted to James I. Porter, Supervisor, Mid-Atlantic/Northeast Section, State Evaluation Branch, State Operations Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302. All written comments will be open to the public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at Park Office Center, 3101 Park Center Drive, Alexandria, Virginia 22302, Room 612.

FOR FURTHER INFORMATION CONTACT: If you have any questions please contact James I. Porter, Supervisor, Mid-Atlantic/Northeast Section, State Evaluation Branch, State Operations Division, Family Nutrition Programs, Food and Nutrition Service, Alexandria, Virginia 22302. Phone (703) 756-3951.

SUPPLEMENTARY INFORMATION: Classification: This proposal has been reviewed with regard to the requirements of Executive Order 12291, and it has been determined that this proposal is not a major rule as defined by that order. It is not likely to result in an annual effect on the economy of $100 million or more. The State agency, when continuing the operation of the Rapid Access System, will not incur any increase in program administrative costs.

This proposal is not likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because the proposed rule will not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Regulatory Flexibility Act

This proposal has also been reviewed with regard to the requirement of Pub. L. 96-354, and the Administrator of the Food and Nutrition Service has determined that the proposal does not have a significant economic impact on a substantial number of small entities. The proposal has no impact whatsoever on small businesses or small organizations. The primary impact is on the New York State agency which operates the program in New York City and on individuals requesting replacement of a nondelivered, stolen or destroyed ATP. Since the system has been in operation for almost two years, there will be no increased economic costs.

Introduction

As the result of the Department's concern over the amount of Federal dollars being lost due to the fraudulent duplicate issuance of food stamp ATP's, on October 17, 1980, regulations were published creating a two-year test project called the New York City Food Stamp Replacement ATP Procedure and Rapid Access Reconciliation System. This project is commonly referred to as Rapid Access. Because the Rapid Access System has some unique features (as explained below), it is necessary to establish special regulatory provisions for operating the system on a permanent basis.

System Operation

Rapid Access is designed to eliminate recipient caused fraudulent duplicate issuance by limiting the validity period of the food stamp ATP to eight days. The system precludes the replacement of an ATP reported lost until the eight-day period had passed and the State agency can determine whether the recipient has not transacted the original ATP.

Briefly, the system works as follows: Upon the passage of the expected day of delivery of the ATP, recipients not receiving their ATP's are required to wait four more days until they fill out an affidavit reporting the loss of the ATP. The affidavit is filled out at the certification office and constitutes the recipient's request for replacement. The certification office then checks a listing of ATP's issued for that office. If no ATP was issued and one should have been, an ATP is authorized immediately. If the listing indicates that an ATP has been issued to a recipient requesting a replacement, the affidavit will be held in suspense. By the fifth business day following the request for replacement, the certification office checks a listing of redeemed ATP's which have the same issuance code as the recipient requesting a replacement. If the recipient's ATP is not on the listing, a replacement is authorized immediately. Participants whose ATP appears on the listing who still claim that they did not redeem their ATP are referred to the City's central Fraud Prevention Unit for further review of their case.

At the Fraud Prevention Unit the signature of the recipient requesting replacement is compared against the signature on the photocopy of the redeemed ATP. If the signatures match, the replacement request is denied. The recipient may request an immediate review by the Fraud Prevention Unit

supervisor. If the recipient is dissatisfied with the supervisor's decision, the recipient may request a fair hearing.

If the signatures do not match, the Fraud Prevention Unit examines the photocopy of the redeemed ATP for a reconciliation number. This number is written on the back of the ATP by the issuance agent at the time of redemption. This number comes from the recipient's food stamp identification (ID) card. Consequently, if the number on the ID matches the number on the transacted ATP, the request for replacement is denied, again subject to immediate supervisory review. If both the signature and reconciliation number do not match, a replacement is authorized by the Fraud Prevention Unit. ATP replacements are later reviewed by the City's Fraud Detection Unit which examines all replacements for evidence of fraud.

Prior to the implementation of Rapid Access, the rate of ATP replacement in New York City was increasing dramatically. Of greater concern was the significant increase in the number of fraudulent duplicate issuances of ATP's. This was caused by the failure to have a system that could readily detect that a recipient requesting a replacement ATP had already received an ATP. Consequently, New York City was issuing replacement ATP's based upon recipients' request for replacements and their promise to return the original ATP if recovered. These measures were not working. In May 1980, a study was done by the City to determine the amount of loss being caused by fraudulent duplicate issuance. In that month it was shown that the City issued 26,377 replacement ATP's valued at $2,454,267. It was found that about half of those replacements were being issued to recipients who fraudulently requested a replacement ATP and then transacted both the original and the replacement. The other replacements were necessitated by legitimate loss or theft.

Since the implementation of Rapid Access, the number of replacements has been reduced significantly and recipient caused fraudulent duplicate issuance has been virtually eliminated. Latest statistics from March 1982 indicate that there were 8,125 requests for replacement ATP's and that only 71 cases of fraudulent duplicate issuance were detected by the Fraud Detection Unit. This decrease represents a savings due to the elimination of recipient caused duplicate issuance fraud of approximately $1.2 million per month. These vastly lower replacement and fraud rates evidenced themselves the first month of the system's operation and have since improved.

A requirement of the October 17, 1980, regulations was a survey of recipients to determine their reaction and attitude toward the system after the first six months of operation. Over 90 percent of the recipients who responded indicated that they were able to redeem their ATP within eight days. Most of those who said they were unable to redeem their ATP's in eight days cited health and mail problems (i.e. late delivery of the ATP) as the main reasons.

The Department believes that the replacement process has not created an excessive burden for recipients. Almost two-thirds of the survey's respondents reported that a replacement ATP was secured in less than two hours. Seventy-five percent of those requesting replacements reported no problems. The other 25 percent mentioned travel time and illness as the major problems in securing a replacement. Ninety-four percent indicated that the system would not deter them from requesting another replacement if necessary.

Regulatory Variance

Rapid Access differs from current regulations in that it places an eight-day validity period on the ATP. Section 274.2(e)(3) requires that each ATP shall be valid for the entire month of issuance unless the ATP was issued after the 25th of the month. An eight-day limit on the ATP's validity period in New York City would apply under the rule to prevent a recipient from holding the ATP, requesting a replacement, and transacting both the original and replacement ATP's. Under these procedures replacement can be made after the original has expired.

These proposed rules would codify portions of the preamble from the October 17, 1980 emergency final regulations which explains the procedure for the replacement of an expired ATP in New York City. If a household does not redeem its ATP within the eight-day validity period, it receives a replacement immediately upon presentation of the original ATP to the eligibility worker. This replacement ATP is valid through the end of the month or for 20 days if issued after the 25th of the month.

Presently, out of approximately 500,000 ATP's issued monthly in New York City, an average of about 1,000 expired eight-day ATP's are exchanged for replacement. This amount to a replacement rate of .2 percent.

In the October 17, 1980, regulations specific mention was given to scheduling fair hearings within 30 days of the denial of replacement. This 30-day timeframe has been stricken to allow New York City to use the timeframes specified in the regulations for fair hearings or other adverse actions. Other jurisdictions, as the result of the October 9, 1981, (46 FR 50784) revisions to the issuance regulations, are permitted to deny replacement of an ATP reported as lost or stolen. Recipients aggrieved by such denials may request a fair hearing under the fair hearing provisions.

In order to provide uninterrupted authority for New York City to continue operation of its ATP replacement procedures, it is proposed that these regulation become effective December 1, 1982.

Note.—This action does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

List of Subjects

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs/social programs, Reporting and recordkeeping requirements.

7 CFR Part 282

Food stamps, Government contracts, Grant program/social programs, Research.

Accordingly, it is proposed that 7 CFR Parts 274 and 282 be amended as follows:

PART 274—ISSUANCE AND USE OF FOOD COUPONS

1. A new paragraph (j) is added to § 274.2 as follows:

§ 274.2 Isssuance systems.

* * * * *

(j) *New York City Food Stamp Replacement Issuance Procedures and Rapid Access Reconciliation System.*

Due to New York City's particularly severe problem with excessive losses caused by food stamp fraud, this unique food stamp issuance and reconciliation system has been developed for use in New York City.

(1) *Replacement of a Stolen or Destroyed ATP.* ATP's will be valid for eight calendar days from the scheduled date of delivery. The recipients can only request a replacement ATP after four business days following the scheduled date of delivery of the ATP.

(i) On or after the fourth business day following the date the ATP was scheduled to be delivered, the recipient may request a replacement ATP at the local certification office by completing an affidavit reporting nonreceipt or destruction of his/her ATP.

(ii) The local certification office shall check the affidavit against a listing of ATP's that were issued to recipients served by that office.

(A) If the listing shows that the recipient has not been issued an ATP, and the household is certified to receive benefits, the certification office shall determine why the ATP was not issued and provide immediate authorization for issuence of an ATP.

(B) If the listing shows that the recipient was issued an ATP, the certification office shall hold the affidavit in suspense for five business days to allow for the original ATP to expire. The recipient shall be instructed to return to the certification office after the passage of five business days.

(iii) By the fifth business day following the date a recipient requested the replacement, the certification office shall check the affidavit against a listing of redeemed ATP's for recipients served by that office.

(A) If the recipient's ATP is not on the listing, a replacement shall be authorized immediately by the certification office.

(B) If the recipient's ATP is on the listing (i.e. the ATP is shown to have been redeemed), the recipient shall be referred to New York City's central Fraud Prevention Unit.

(iv) The Fraud Prevention Unit shall compare the signature of the recipient requesting the replacement against the signature on a photocopy of the redeemed ATP.

(A) If the signatures match, the replacement request shall be denied. The recipient may request an immediate review by the Fraud Prevention Unit supervisor. If the recipient is dissatisfied with the supervisor's determination, he/she may request a fair hearing.

(B) If the signatures do not match, the Fraud Prevention Unit shall check a photocopy of the redeemed ATP for the reconciliation number written on the back of the ATP by the issuance agency at the time of redemption. This number is taken from the recipient's food stamp identification card.

(C) If the reconciliation number on the identification card of the recipient requesting the replacement is the same as the reconciliation number on the redeemed ATP, the request for replacement shall be denied, again subject to supervisory review and a fair hearing at the request of the recipient as provided in paragraph (iv)(A) above.

(D) If neither the signature nor the reconciliation number match, a replacement shall be authorized by the Fraud Prevention Unit.

(v) In instances in which a recipient reports both his/her ATP as nondelivered, or destroyed and food stamp identification card as lost, stolen, or destroyed the requirement that the reconciliation number on the identification card of the recipient must be different from the reconcilation number on the redeemed ATP may be waived.

(vi) In cases where a recipient's eight-day ATP card has expired, the recipient may exchange the expired ATP for immediate replacement by the eligibility worker. That replacement ATP shall be valid to the end of the month or for 20 days if issued after the 25th of the month.

(2) *Right of Appeal.* Recipients being denied a replacement ATP shall be informed of their right of appeal.

(i) When denied a replacement for an ATP reported as lost or stolen, the recipient may request an internal supervisory examination of the determination.

(ii) If dissatisfied with this review, the recipient may request a fair hearing.

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

§ 282.15 [Amended]

2. The language in Section 282.15 is removed and the number is reserved for future use.

(91 Stat. 958 (7 USC 2011–2029))

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

Dated October 8, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-28349 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Docket No. AO-144-A13]

Emergency Decision on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This emergency decision would amend the Federal marketing agreement and order for lemons grown in California and Arizona. The proposed amendment would permit handlers to request that lemons on the trees be included, under specified conditions, in the calculation of their weekly prorate basis.

DATE: August 1, 1981, through July 31, 1982, is determined to be the representative period for purposes of determining whether the proposed amendment is approved or favored by producers who during such representative period were engaged in the production of lemons within the production area.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Room 2532-S, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing, issued September 7, 1982, published September 10, 1982 (47 FR 39836).

This administrative action is governed by the provisions of Section 556 and 557 of Title 5 of the United States Code, and therefore is excluded from the requirements of Executive Order 12991 and Secretary's Memorandum 1512-1.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Preliminary Statement

A public hearing was held on September 15, 1982, upon proposed further amendment of the marketing agreement, as amended, and Order No.

910, as amended (7 CFR Part 910). The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), in Los Angeles, California. Notice of this hearing was published in the **Federal Register** on September 10, 1982, (47 FR 39836).

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Further Amended, Regulating the Handling of Lemons Grown in California and Arizona," and "Order Amending the Order, as Amended, Regulating the Handling of Lemons Grown in California and Arizona," which have been decided upon as the detailed and appropriate means of effectuating the conclusions hereinafter set forth.

Material issues: The material issues of record are as follows:

(1) Permitting handlers to request that lemons on the trees be included, under specified conditions, in the calculation of their weekly prorate bases; and (2) whether an emergency exists to warrant the omission of a recommended decision with respect to material issue No. 1.

1. The marketing order regulating California-Arizona lemons provides authority for setting the quantity of lemons which may be shipped into specified markets on a weekly basis; and a method by which each handler is allocated a share of such quantity. These allocations are based primarily on the quantity of lemons picked and delivered to the handlers, usually referred in the industry as "picks." The production area for lemons is divided into three districts. The districts are established to recognize the differences in the production cycle and in the maturity and storage quality of lemons produced in the different geographical sections of the production area. In addition, a number of adjustments are provided to permit specific overshipment, undershipment, allotment loans, off-boom allotments and different time periods over which average weekly picks of lemons are used to determine prorate bases.

The order and regulations provide for upward adjustment of average weekly picks of handlers in Districts 1 and 3 in an amount not exceeding 50 percent of such average with provisions for a maximum 100 percent upward adjustment of average weekly picks through July 31, 1983. District 2 handlers are permitted adjustment of average weekly picks in an amount not exceeding 50 percent of such average if the handler is authorized to begin a new prorate base period in accordance with the order.

The evidence of record indicates that handlers should be permitted to request upward adjustments or request that specific lemons on the tree be included in the calculations of their prorate bases, but not both. The reasons for this is that simultaneous use of both of these options could not be administered accurately and efficiently. Handlers may exercise the available option which best suits their individual operation. The order should be amended to permit inclusion of this additional option whereby lemons on the trees may be included in the calculation of these allocations.

Section 910.53 of the marketing order currently provides a method for establishing the total quantity of lemons which may be shipped into the domestic market as fresh lemons on a weekly basis. Under the order, the domestic market includes Canada. This weekly quantity is then allocated among lemon handlers on the basis of each handler's prorate base. Primarily, each handler's prorate base is determined by averaging the quantity of lemons picked and delivered to such handler over a prescribed number of weeks. Each individual handler's share of the limited quantity of lemons that may be shipped as fresh lemons into the domestic market is the product of the handler's prorate base multiplied by the quantity fixed by the Secretary for that week.

Lemons which are exported fresh, or those utilized in the production of lemon products (e.g. lemon oil and lemon juice concentrate) are not part of a handler's prorate. In addition, shipment of fruit for consumption by charitable institutions or distribution to relief agencies are not part of the prorate.

During the past two years, the lemon industry produced two of the largest crops in history; and the current crop (1982–83) is expected to be almost as large as each of those years. Shipments of fresh lemons into the domestic market (i.e. the market regulated under the marketing order) for the five-year period (1976–1981) have averaged about one-fourth of the total quantity of lemons utilized in all market outlets. Thus, as each handler determines the quantity of lemons required for the handler's operation for a given period, all market outlets are considered rather than just the quantity needed for shipment as fresh lemons into the domestic market.

The hearing record indicates that from 1975 to 1980, the export market for fresh lemons to the European market amounted to about 25 percent of the total quantity utilized as fresh lemons in the domestic market. However, recent shipments of fresh lemons to Europe have declined drastically, to about 2 percent of fresh shipments. The evidence of record indicates that the primary reasons for the decline were sharp changes in currency exchange rates and increased lemon production in the Mediterranean countries of Europe. Favorable trading agreements among the European Economic Community nations result in lower duty on European lemons than is the case with U.S. fruit. The hearing record indicates that the effect of such trading agreements has encouraged increases in European lemon production over a period of time. Thus, the cumulative effect of currency value changes and the duty agreements, has now resulted in an emergency situation for the California-Arizona lemon industry.

The hearing record also contained allegations that subsidies or other governmental incentives in some European countries favorably affect the market prices for European lemons. However, no evidence was submitted to indicate the existence of or the exact level of any such subsidies or incentives. In addition, transportation charges incurred in shipping U.S. lemons into European markets are greater than those incurred on lemons produced in Europe.

In the past five years (1976–1981) more than half of the production of California-Arizona lemons has been utilized for lemon products. In the 1980–81 season, approximately 40,800 carloads were so utilized (1,000 cartons with a net content of 38 pounds of lemons per carton equals a carload). Lemon products are also exported and shipments of such products into the export market have also declined. This decline was caused by the same factors as those responsible for the decline in shipments of fresh lemons.

Based upon the foregoing, it is apparent that California-Arizona lemon growers and handlers are facing a serious and immediate marketing problem. As previously stated, under the current marketing order provisions lemons must be picked and delivered to handlers in order for handlers to earn the prorate base required to make shipments of fresh lemons into the domestic market. However, in order to insure sufficient quantities of lemons of a quality suitable for shipment into the domestic fresh market, the total quantity of fruit harvested usually exceeds the quantity necessary for such shipment. Under ordinary circumstances, the excess lemons are disposed of into the other non-regulated channels. But the export market for fresh lemons and

lemon products has practically disappeared and as a result there is a severely limited market for large quantities of harvested fruit. This has brought about a substantial buildup of inventory of lemon products with a corresponding decline in the price for lemons for such purposes. The precise level of the inventory of lemon products is not known because such data is not available to the LAC. Furthermore, since lemon products are not regulated under the marketing order, there is no means available to the committee to obtain precise information. However, one of the primary reasons the committee requested this emergency amendatory action was to provide a means whereby harvesting of lemons in excess of immediate fresh domestic market requirements could be deferred because returns from alternate outlets were depressed, thus the contention that the lemon products inventory is heavy appears reasonable and valid. Proponent testimony indicated that at the present time, prices for lemons at the grower level for use in the production of lemon products result in a negative return to growers of about $70 per ton.

As previously indicated, the marketing order currently provides that the prorate base for each handler is based upon the quantity of lemons picked and delivered to the handler. In view of the marketing outlook, the order should be amended to provide a method whereby lemons on the trees may be used in the calculation of handlers' prorates. In other words, a method is needed whereby handlers may earn prorate without harvesting lemons for which no market exists. Such a change would permit deferring the harvesting until a time when marketing conditions might be more favorable but at the same time maintain the basic prorate features of the marketing order.

The evidence of record indicates that the order should be amended to provide a method whereby handlers can identify to the LAC lemons on the tree for inclusion in the calculation of the individual handler's prorate base. To accomplish this objective the handler would identify the on-tree lemons and the committee would use a certification process to insure that any such fruit would be used only once in any prorate calculation.

Any handler wishing to utilize the certification procedure would request such certification from the LAC in an amount not to exceed 25 percent of the lemons controlled by the handler for each credit period. The proponents indicated that allowing up to this quantity of fruit on the trees to be included in the calculation of handler prorate bases would likely result in sufficient adjustment in lemon product inventory to alleviate the current marketing problem. However, in the event a greater adjustment is needed, a larger percent could be recommended by the committee and approved by the Secretary. Any request for certification should be make at least two weeks prior to the week upon which such certification is to be used in calculating the handlers prorate base in order that the committee through its field staff representatives will be able to review such a request. Handlers in District 1 may request certification not later than the second week in March; handlers in District 3 may request certification not later than the second week in January; and handlers in District 2 may request such certification from the first week in February through the last week in May. Under the marketing order, the regulation week begins on Sunday, thus certification periods should also commence on Sunday. Handlers in District 2 may request certifications in conjunction with any new prorate base resulting from interrupted picking, such certification to commence with the beginning week of a new prorate base.

The evidence of record indicates that the quantity of fruit on the trees certified and included in the calculation of a handler's prorate base should be added in equal weekly amounts to District 1 and 3 handlers over a 10 week period; and to District 2 handlers over a 13 week period. Handlers may apply for additional certification credits if crop volume warrants. Some overlapping of the time periods would be appropriate in the event of adverse weather conditions, availability of labor or other unforseen problems.

Certification of lemons on the trees will create some administrative problems for the LAC, particularly that of insuring that any lemons so certified are not included more than once as part of a handler's pick for any week. Additionally, the committee must be sure that the same lemons are not certified more than once. Thus, handlers would be required to notify the committee of an intent to harvest such certified fruit at least one week prior to picking. The fruit which was certified may be shipped to any outlet. However, it will not be again included in the calculation of a handler's prorate base. Upon harvesting of certified fruit, if the quantity is more or less than the quantity originally certified, the handler may request additional certification; if the quantity is less, the committee shall reduce the handler prorate base accordingly. Since the certification is based upon estimates, this will allow for appropriate adjustments.

It is intended that any lemons on the trees which are included in the calculation of handler's prorate base be produced in then current crop year. For this reason, the order should specify that handlers in District 1 and 3 may request certification for all fruit produced in those districts. Since trees in these districts produce their total crop during short periods of time during a year, no problems are likely to be incurred relative to identification of fruit. However, in District 2, lemons are produced on a continuous basis throughout the year. Thus, fruit certified in this district must be full yellow mature fruit (or damaged fruit which is normally harvested in the district) of ring size 1.82 or larger. These requirements for District 2 are necessary in order that the committee will be able to insure that any fruit may be properly identified, was produced during the applicable fiscal year and avoids the possibility of certifying fruit more than once.

A handler's prorate base is related to the quantity of lemons the handler controls. Thus, if a handler loses control of lemons which had been certified, the certification for that quantity so lost would be deducted from such handlers prorate base. Similarly, the handler who gains control of such lemons would have to request certification, if such was desired.

The recommended amendment of the order imposes minimal information and recordkeeping requirements on lemon handlers. The LAC would need to know the location of the fruit on the tree which is to be certified in order that its field personnel can determine the existence and the quantity of fruit to be certified. Handlers would need to notify the committee of their wish to have fruit certified. Since handlers have agreements or contacts with lemon growers, this certification process would require handlers to develop no information in addition to that which the handler already has in the normal course of business, though a handler representative might choose to accompany the committee staff person to the actual grove site for the inspection prior to issuance of any certification. At the time of the hearing the precise committee cost had not been estimated however, the proponents did not consider the cost would be significant. Since the certification option is solely responsive to a request from a handler, there is no apparent practical alternative to getting the necessary

information from handlers in order to effectively administer this amendment of the order.

It is not possible to forsee what specific problems may arise in the administration of the program as a result of this amendatory action. Accordingly, the order should include authority whereby the LAC may recommend and the Secretary may approve any appropriate rules and regulations which may be necessary.

2. The notice of hearing relative to this matter indicated that evidence would also be taken to determine whether emergency conditions exist which would warrant omission of a recommended decision, as provided for in § 900.12(d) of the General Regulations of the U.S. Department of Agriculture (7 CFR Part 900). The evidence of record indicates that such emergency conditions do exist. The marketing outlook in the export and lemon products market does not appear to be favorable nor does it appear that the outlook is likely to improve in the short term future. The current marketing order requires that handlers' prorate bases be determined upon the quantity of lemons picked and delivered. Thus, those lemons harvested which are in excess of the quantity which can be marketed as fresh lemons in the domestic market are being made available to a market which is oversupplied. As a result, lemon growers are not likely to receive a price which would return the cost of harvesting and handling. To permit inclusion of lemons on the tree to be used in the calculation of handler prorate bases would defer harvesting until marketing conditions may be more favorable. A proponent witness testified that during study committee meetings at which this proposed amendment was developed, it was estimated that adoption of this amendment might enable the industry to avoid a loss of around $10 million dollars to growers and handlers of the current lemon crop.

Any handler who chooses to exercise the option provided by this amendment may do so. However, no handler is required to use this option. The amendment makes no basic change in the prorate system of the order but simply affords handlers an additional tool for use in planning and conducting marketing within the limits of the handler's own prorate base. The LAC is currently developing further amendatory proposals and anticipates requesting another formal hearing in the near future. The committee has indicated its intent to review and evaluate the operation and effect of the order provisions relative to inclusion of lemons on the tree in the calculation of handlers' prorate bases. Thus, the changes in the order resulting from this amendment, though in response to an emergency situation, are being included in the marketing order with no termination date. This is being done with the expectation that the committee will make appropriate recommendations for inclusion of this subject matter with its proposals for further amendatory action.

It is therefore, found that an emergency situation exists and good cause exists for omission of the recommended decision in accordance with § 900.12(d) of the General Regulations (7 CFR Part 900) and the opportunity for filing exceptions thereto.

Rulings on briefs of interested persons.

Briefs were filed by the LAC, the California-Arizona Citrus League (a voluntary, non-profit trade association of marketers of California-Arizona citrus fruits) and by Exeter Orange Company, Exeter, California. The committee and the Citrus League both supported the proposed amendment and requested the amendment be implemented on an emergency basis. Exeter Orange Company's brief stated primarily that: the notice preceding the hearing was insufficient; that it did not adequately disclose the subject matter of the hearing; that the Administrative Law Judge improperly narrowed the scope of the hearing; and concluded that an additional hearing should be held.

Each point included in the briefs was carefully considered, along with evidence in the record, in making the findings and reaching the conclusion contained herein. To the extent that any suggested findings or conclusions contained in any of the briefs or arguments are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of facts found and stated in connection with this decision.

General findings: Upon the basis of the record, it is found that: (1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of lemons grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) The marketing agreement and order, as amended, and as hereby proposed to be further amended, prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production area and marketing of lemons; and

(6) All handling of lemons grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

It is hereby determined that August 1, 1981, through July 31, 1982, is the representative period for the purpose of ascertaining whether the issuance of the order, as amended, and as hereby proposed to be amended, regulating the handling of lemons grown in the production area (California and Arizona) is approved or favored by producers, as defined under order (as amended, and as hereby proposed to be amended), who during such representative period were engaged in the production of lemons within the production area.

Signed at Washington, D.C. on: October 8, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [1] Amending the Order, as Amended, Regulating the Handling of Lemons Grown in California and Arizona

Findings and determinations: The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings Upon the Basis of the Hearing Record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The order, as amended, and as hereby further amended, regulates the handling of lemons grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of lemons: and

(5) All handling of lemons grown in the production area is in the current of interstate of foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of lemons shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.53 is amended by adding paragraph (i) as follows:

§ 910.53 Prorate bases.

* * * * *

(i) Notwithstanding any other provisions of this section, the prorate base for any handler may be computed as follows:

(1) The prorate base as determined by paragraph (d) of this section, and by that portion of paragraph (f)(2) pertaining to new prorate bases for District 2 handlers, shall be increased by the quantity of lemons certified under this paragraph by the committee. The quantity of lemons which may be so certified for a handler in each certification credit period may not exceed 25 percent of the total estimated tree crop controlled by such handler. The quantity of lemons so certified shall be credited to a handler's average weekly picks in equal amounts over the number of weeks in the credit period.

(2) The committee shall determine the type of fruit eligible for certification in each district to assure that all such fruit was produced during the then current fiscal year.

(3) The committee shall establish time periods during which certification may be approved in the various districts, herein referred to as application periods. The committee shall also establish the number of weeks, herein referred to as the credit periods, over which certification will apply to handlers in each prorate district.

(4) Any handler utilizing the provisions of this paragraph shall be precluded from requesting upward adjustment as provided for in paragraph (f) (1) and (2) of this section.

(5) The committee shall establish procedures whereby any handler who has fruit certified may have such certification cancelled during a credit period.

(6) At the end of a credit period, certified fruit will not be included as picks to earn prorate base.

(7) The committee shall establish procedures to assure that any certified fruit over which control is transferred from one handler to another handler does not result in duplicate pick credit.

(8) The committee, with the approval of the Secretary, may establish rules and regulations to effectuate the provisions of this paragraph which may include modification of the method or manner of making certification computations.

[FR Doc. 82-28395 Filed 10-14-82; 8:45 am]
BILLING CODE 3410-02-M

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Farmers Home Administration

7 CFR Part 1942

Community Programs Selection Criteria

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise its regulations to establish Community Programs project selection criteria that will be used to assist both State and National Office personnel to prioritize eligible project preapplications. Currently, Community Programs regulations provide for several factors to be considered when establishing priority among applications for funding. The present selection system relies heavily on the individual judgment of program managers. Interpretation and implementation of the priorities sometimes vary from state to state. The intended effects of this revision are to improve the uniformity of the selection process and to insure that FmHA resources continue to be focused on lower income applicants and on projects that best serve community needs.

DATE: Comments must be received by December 14, 1982.

ADDRESSES: Submit written comments in duplicate to the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Robert P. Mathia, Loan Officer,

Community Facilities Loan Division, Farmers Home Administration, USDA, Room 6306, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382-1490.

SUPPLEMENTARY INFORMATION:

Classification: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor. The proposed rule will not result in the following:

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

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

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Analysis: Charles W. Shuman, Administrator, has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities. The rule establishes criteria for selecting projects to receive Community Program funding. The formal establishment of these criteria will make the selection process more uniform and will insure that assistance is directed to the most deserving projects.

Clearinghouse Review: The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901-H.

Environmental Impact: This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements". It is the determination of FmHA that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Programs affected: Catalogue of Federal Domestic Assistance (CFDA) Nos. 10.418, Water and Waste Disposal Systems for Rural Communities; and 10.423, Community Facilities Loans.

Background: Community Programs provide assistance to a broad range of applicants for several kinds of projects some of which are more crucial than others in terms of meeting basic human and rural community needs. The majority of this assistance is provided through a network of State Offices that are responsible for project selection and development. The balance, held as a reserve for contingencies, is provided through a National Office which is also responsible for overall supervision of the State Offices. The present selection system relies heavily on the individual judgments of program managers and is subject to variations in interpretation and implementation between states and from manager to manager. The objective of the proposed change is to develop a more uniform selection process and to insure the effective allocation of Community Programs resources to the most deserving projects and applicants.

Alternatives: One alternative considered was to make no change to the current regulations. This alternative would give those with the most knowledge of a proposed project, i.e. State Office project managers working at the grass roots level, greatest flexibility in making selection decisions. However, this alternative would provide little or no direction to those personnel in making decisions. The existing selection system would continue to operate with no improvements in uniformity and agency resources could be utilized in less than optimal fashion in some instances.

Another alternative considered was to centralize the project selection process in the National Office. While such a system would have the advantage of providing excellent control over the consistency and uniformity of the selection process, it suffers from the great disadvantage of removing the decision-making process from the grass roots level. Because of the geographic distances involved, decisions could only be made based upon the written presentations submitted by applicants. State Office personnel who often have considerable knowlege of a project would be removed from the decision-making process. This would increase the chances of selecting unsuccessful projects or projects of low priority as perceived by the local community. In addition, for this selection process to work well, all applicants would have to present equally good applications which, of course, is not realistic. Lower income or small applicant organizations would be at a disadvantage because they often lack the sophistication and resources necessary to prepare an application that would successfully compete with applications submitted by larger, higher income organizations.

The recommended alternative is to amend FmHA regulations to establish a list of priorities to assist program managers in making selection decisions. The proposed selection priorities are based on criteria already contained in FmHA regulations or in a final rule published in the **Federal Register** on August 3, 1982 at 47 FR 33488. The list will assist in prioritizing proposed projects based on the economic condition of the users as well as the service provided by the project. Those projects which are located in rural, lower income areas and which provide the most crucial service in terms of meeting basic human and community needs will receive highest priority under the proposed list. This alternative has the double advantage of: (a) leaving the decision-making process with the individuals who have the most knowledge of the proposed projects; and (b) putting the selection system on a more rational basis which will provide both greater uniformity and greater assurance that agency resources are utilized for only the most deserving projects.

FmHA believes this alternative maximizes the net benefit to society at the lowest net cost.

List of Subjects in 7 CFR Part 1942

Business and industry, Community development, Community facilities, Grant program—Housing and community development, Loan programs—Housing and community development, Loan programs—Natural resources, Loan security, Rural areas, Soil conservation, Waste treatment and disposal—Domestic, Water supply—Domestic.

PART 1942—ASSOCIATIONS

Accordingly, FmHA proposes to amend Subpart A of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations by revising § 1942.17(c) to read as follows:

§ 1942.17 Appendix A—Community Facilities

* * * * *

(c) *Priorities.*— (1) *Truly rural areas.* FmHA program assistance will be directed toward truly rural areas and rural communities. Normally, priority will not be given to preapplications for projects that will serve other than truly rural areas. Truly rural areas are areas other than densely settled areas or communities adjacent to or closely associated with a city or town with a population exceeding 10,000 residents for water or waste disposal assistance or 20,000 residents for essential community facility assistance. When determining whether a rural area or rural community is adjacent to or closely associated with a city or town with a population exceeding 10,000

residents for water and waste disposal or 20,000 residents for essential community facility assistance, minor open spaces such as those created by physical or legal barriers, commercial or industrial development, parks, areas reserved for convenience or appearance, or narrow strips of cultivated land, will be disregarded. An area or community shall be considered adjacent to or closely related with a non-rural area when it constitutes for general, social, and economic purposes a single community having a contiguous boundary.

(2) *Project selection process.* The following paragraphs indicate items and conditions which must be considered in selecting preapplications for further development. When ranking eligible preapplications for consideration for limited funds, FmHA officials must consider the priority items met by each preapplication and the degree to which those priorities are met, and apply good judgment.

(i) *Preapplications.* The preapplication and supporting information submitted with it will be used to determine the proposed project's priority for available funds.

(ii) *State Office review.* When considering authorizing the development of an application for funding, the State Director should consider the remaining funds in the State allocation and the anticipated allocation of funds for the next fiscal year as well as the amount of time necessary to complete that application. All preapplications will be reviewed and scored and an AD–622 issuued within the time limits established in § 1942.2(a)(2)(iv). Applicants whose preapplications are found to be ineligible will be so advised. These applicants will be given adverse notice through Form AD–622 and advised of their appeal rights in accordance with Subpart B of Part 1900. Those applicants with eligible preapplications which obviously cannot be funded within an eighteen month period of time, and are not within 150 percent of the State's allocation, should be notified that funds are not available and requested to advise whether they wish to have their preapplication maintained in an active file for future consideration. The State Director may request an additional allocation of funds from the National Office for such preapplications. Such requests will be considered along with all others on hand.

(iii) *Selection priorities.* The following criteria will be used by the State Director to rate preapplications. The format found in Guide 26 should be followed in scoring each preapplication. A copy of the score sheet should be placed in the case file for future reference.

(A) Priorities for Water and Waste Development projects only. Points will be distributed as indicated:

(*1*) Project is located in a rural community having a population not in excess of 5,500, is needed to alleviate sudden unexpected diminution or deterioration of water supply, and the applicant is a public body (including Indian tribes). *25*

(*2*) Project is located in a rural community having a population not in excess of 5,500, will correct an inadequate waste disposal system due to unexpected occurrences, and the applicant is a public body (including Indian tribes). *25*

(*3*) Project will merge ownership, management, and operation of smaller facilities providing for more efficient management and economical service. *10*

(*4*) Project will enlarge, extend, or otherwise modify existing facilities to provide service to additional rural residents. *10*

(B) Priorities for Community Facility projects only. Select only the factor most applicable to the proposed project. Points will be distributed as indicated:

(*1*) Public safety facility. *15*

(*2*) Health care facility. *10*

(*3*) Public service facility. *5*

(C) Priorities for Community Facility and Water and Waste Disposal projects. Points will be distributed as indicated:

(*1*) Applicant is a public body or Indian tribe. (For WWD, points under this priority should not be assigned to a preapplication if points were assigned under paragraphs (c)(2)(iii)(A) (*1*) or (*2*) of this section.) *15*

(*2*) Median income of the population to be served by the proposed facility is:

(*i*) Less than the poverty line for a nonfarm family of four as prescribed by the Office of Management and Budget (OMB) as described under Section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d). *15*

(*ii*) More than the poverty line but less than 85% of the State's nonmetropolitan median family income. *10*

(*3*) Project is located in a "truly rural area" as described in § 1942.17(c)(1). *25*

(*4*) Project is required to meet a published health and/or sanitary standard, or conform with the Safe Drinking Water Act (SDWA). (An explanation of how a project meets this criterion is required for the file. For WWD, points under this priority should not be assigned to a preapplication if points were assigned under paragraphs (c)(2)(iii)(A)(*1*) or (*2*) of this section. *15*

(*5*) Amount of joint financing committed to the project is:

(*i*) 50% and over private, local or State funds. *15*

(*ii*) 25%–49% private, local or State funds. *10*

(*iii*) 11%–24% private, local or State funds. *5*

(*6*) Geographic distribution of program benefits where:

Note.—Those States which have three or fewer District Offices should utilize counties as the geographic measurement unit in scoring the following. All other States should utilize District office areas.

(*i*) No projects of the same type i.e., water and waste disposal or community facilities, were approved in the District/County where the project will be located during the last three fiscal years. *10*

(*ii*) One–three projects of the same type were approved in the District/County during the last three fiscal years. *8*

(*iii*) Four–six projects of the same type were approved in the District/County during the last three fiscal years. *5*

(d) In case of an unforeseen exigency or emergency the State Director may assign up to 15 points to a preapplication in addition to those that may be scored under paragraphs (c)(2)(iii) (A) through (C) of this section. Such emergencies may include the loss of a community facility due to accident or natural disaster or the loss of joint financing if FmHA funds are not committed in a timely fashion. A written justification must be prepared and placed in the project file each time the State Director assigns points.

(iv) *Results of State Office review.* After completing the review, the State Director will normally select those preapplications with the highest rating for further processing. A written justification must be prepared and placed in the project file when a project with a higher rating is not selected for further processing. The State Director will notify the District Director of the results of the review action. The State Director will return the preapplication information with an authorization for the District Director to prepare and issue Form AD–622 in accordance with § 1942.2(a)(2)(iv). Priority will be given to those preapplications and applications for funding which meet criteria in (c)(2)(iii)(A) *(1)* or *(2)* of this section.

(v) *Requests for additional funding.* All requests for additional allocations of funds submitted to the National Office must follow the format found in Guide 26. In selecting projects for funding at the National Office level additional points may be scored based on the priority assigned to the project by the

State Office. These points will be scored in the manner shown below. Only the three highest priority projects can score points. In addition, the Administrator may assign up to 15 additional points to account for items such as geographic distribution of funds and emergency conditions caused by economic problems or natural disasters.

Priority	Points
1	5
2	3
3	1

(vi) *Cost overruns.* A preapplication may receive consideration for funding before others at the State Office level or at the National Office level, if funds are not available in the State Office, when it is a subsequent request for a previously approved project which has encountered cost overruns due to high bids or unexpected construction problems that cannot be reduced by negotiations, redesign, use of bid alternatives, rebidding or other means.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Date: September 10, 1982.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development, Farmers Home Administration.

[FR Doc. 82-28412 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg B; Docket No. R-0185]

Equal Credit Opportunity; Withdrawal of Proposed Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Withdrawal of proposed amendments.

SUMMARY: The Board is withdrawing proposed amendments to the business credit provisions of Regulation B. The proposed amendments were initially published for comment in October 1978; notice of their proposed withdrawal was published in June 1982 (47 FR 23741). The amendments to the business credit rules would have (1) eliminated the partial exemption that currently exists with respect to record keeping and adverse action notification requirements in certain loan transactions under $100,000; and (2) subjected business credit to the general bar in the regulation against asking an applicant's martial status. The proposal would also have incorporated official staff interpretation EC-0009 into the regulation to make clear that creditors must give business applicants some notice, oral or written, of action taken on an application within a reasonable time; the interpretation remains in effect.

The proposed amendments related only to the mechanical requirements of the regulation, and their withdrawal does not affect the substantive provisions of the Equal Credit Opportunity Act and Regulation B, which continue to prohibit discrimination on the basis of sex, marital status, race, etc. in any aspect of a business credit transaction.

FOR FURTHER INFORMATION CONTACT: Claudia J. Yarus, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667). Regarding the final regulatory flexibility analysis, contact: Robert Kurtz, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C 20551 (202-452-2505).

SUPPLEMENTARY INFORMATION: (1) *Introduction.* Regulation B (12 CFR Part 202) prohibits discrimination, in any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. The regulation applies to all credit transactions, including business credit.

The regulation sets certain mechanical requirements that creditors must follow with regard to applications that they receive. Sections 202.9 and 202.12(b) of Regulation B provide, respectively, that a creditor must give the applicant notice of the action taken on an application and retain, for 25 months, the records regarding the application. When the creditor rejects a credit application it must give an "adverse action" notice consisting of a written statement of reasons (or of the right to request the reasons) for the credit denial, together with a short summary of the applicant's rights under the Equal Credit Opportunity Act.

Because of the specialized nature of the business credit application process, § 202.3(e) of Regulation B provides a partial exemption for business credit transactions from these notification and record keeping requirements. An applicant for business credit may *request* written notice of reasons for adverse action, but does not receive the written notice automatically. The business applicant may also *request* to have records of the application retained for 25 months. If there is no such request, the creditor may discard its records of the application 90 days after it rejects the credit request.

On October 26, 1978 the Board published for comment proposed changes to these business credit provisions (43 FR 49987). The proposed amendments would have applied to direct loan applications for amounts under $100,000. Creditors would have been required in such cases to give written notification of adverse action to the applicant, and to retain the records of the application for 25 months.

Another proposal related to marital status inquiries. Regulation B generally prohibits creditors from inquiring about an applicant's marital status except in the case of applications for secured credit. Section 202.3(e)(1) of Regulation B provides, however, that an application for business credit is not subject to this restriction. The proposed amendment would have eliminated the exemption, making business credit subject to the general information bar against marital status inquiries.

On June 1, 1982, the Board published a notice regarding its planned withdrawal of the proposed amendments (47 FR 23741). The Board specifically solicited comment, however, on whether there have been intervening developments which suggest that creditors should be required to give business credit applicants a written notice of adverse action for certain direct loans.

Based on a review of the comments received (which did not raise evidence of intervening developments) and its own analysis, the Board is withdrawing the proposed amendments. In light of the costs and burdens that would be associated with the implementation of these amendments, their adoption appears unwarranted. The regulation already provides that business credit applicants may receive written notice and have records retained on request. The likely benefits of prohibiting inquiry about an applicant's marital status also appear to the Board to be rather limited. Because most applications for business credit are for secured credit, under the regulation creditors would in most cases continue to be able to inquire about marital status.

The proposal published by the Board also would have codified within the text of the regulation an official staff interpretation, EC-0009, which was issued on November 2, 1977. That staff interpretation makes it clear that creditors must give business applicants oral or written notice, within a reasonable time, of action taken on an

application. The interpretation remains in effect.

The Board reminds creditors once again that the proposed amendments which the Board is withdrawing related only to the mechanical requirements of the regulation. The substantive provisions of the Equal Credit Opportunity Act and Regulation B continue to prohibit discrimination on the basis of sex, marital status, race, etc. in any aspect of a business credit transaction.

(2) *Final Regulatory Flexibility Analysis.* In October 1978, the Board proposed amendments to Regulation B which would eliminate certain business credit exemptions for direct loan applications in which the aggregate of any amount already owed to a creditor and the amount applied for is less than $100,000. Adoption of the amendments would require creditors to give the business applicant notice of the action it takes and retain its records regarding the credit application for 25 months. When adverse action occurs, creditors would have to provide written notice about an applicant's ECOA rights, together with a statement of the reasons or of the right to request the reasons for denial.

In June 1982, the Board published for public comment a proposal to withdraw the proposed amendments. The comments received by the Board have been considered in this memo which discusses the potential economic impact of the proposed amendments.

Potential Economic Impacts

In 1981, the denial rate at commercial banks for business credit applicants desiring to start a new business was estimated to be approximately 50 percent. The denial rate estimated for existing businesses was 27 percent.[1] Many of the more than two million denials would have required written "adverse action" notifications and record retention for 25 months under the proposed amendments. At the 1981 level of denials, the aggregate annual compliance cost of the proposed amendments to the industry as a whole could be substantial, although the impact on after-tax profits would likely be minimal for most individual creditors. While the impact of the proposed amendments on creditor's cost per loan would be small in most instances, it could be large enough to affect creditors' decisions on applications for low denomination loans. Many relatively small short-term loans currently available to small business could become unprofitable. Creditors find it difficult to provide affordable credit to their small business customers during periods of high interest rates. The proposed amendments would aggravate the credit problem of small businesses, because the cost of compliance would ultimately be passed on to borrowers as increased cost of credit and reduced credit availability. The amendments could also encourage more creditors to prescreen small business applicants in order to avoid the compliance costs.

One-time costs would be incurred by creditors for legal counsel to review, interpret, and advise on implementation of the amendments; for the development and implementation of a system to provide written adverse action notification; for additional equipment to maintain applicant files; and for the initial retraining of clerks and loan officers.

The efforts to maintain files on denied applications and the time necessary to provide written adverse action notification would result in costs recurring with each additional credit denial. The magnitude and relative importance of these costs per denial would vary among creditors, depending primarily on the filing system technology employed and decisions about the cost effectiveness of providing all denied applicants with written reasons for adverse action rather than only responding to requests for written reasons. In a 1981 Federal Reserve Survey,[2] financial institutions reported that the most burdensome recurring cost associated with Regulation B was the cost of providing a written adverse action notice to applicants denied consumer credit. In the case of business credit, the cost is likely to be even greater because the process of granting or denying credit is more complex. A checklist of reasons for business credit denial, similar to the checklist given to consumers, may be inadequate in some cases to provide a business credit applicant meaningful information about why credit was denied. The alternative to a checklist is costly. A significant level of effort is needed by a creditor to compose and produce a detailed report explaining the denial of credit. Good business strategy, however, might indicate that a creditor make this extra effort and bear the expense when there is a prospect for future business and profit. There is the danger that the denied applicant might be offended by a short checklist type of response following a long and personal negotiating process.

Potential Impact on Small Entities

Small banks are likely to be affected more than other banks by the amendments. Their business loans tend to be exclusively to small business.[3] Small banks' loan portfolios contain relatively few loans over $100,000, and their average loan size is less than that for other banks.[4] Therefore, the amendments would likely result in a greater cost per dollar of loan for small banks and their customers.

The potential negative impact of the proposed amendments on cost and availability of low denomination, short-term business loans would affect all creditors subject to the ECOA, not only commercial banks. However, recent evidence indicates that the commercial bank sector continues to be the major institutional supplier of credit to small business.[5]

Potential Benefits

The potential benefits of the proposed amendments appear to be limited. Survey evidence shows that small business credit may be more costly and less accessible to some groups protected by the ECOA,[6] but evidence suggesting that the disparity is caused by unlawful discrimination rather than a legitimate evaluation of risk is meager.

It is unlikely that the proposed amendments would substantially improve the detection of unlawful discrimination. Unlawful discrimination can be easily masked by the multitude of factors considered in approving or denying business credit. The written reasons for rejecting a particular

[1] *Survey of Commercial Bank Lending to Small Business,* February 1982, Cynthia Glassman and Peter Struck. The denial rate is an estimate of the proportion of written credit applications turned down by all federally insured commercial banks that had at least $1 million in commercial and industrial loans in their portfolios on December 31, 1980. These figures do not include informal applications and may reflect unusually weak credit demand caused by high interest rates. Thus, the number of applications subject to the proposed amendments may be much larger. Estimates in the survey reflect banks' perceptions of their small business lending, not the perceptions of the small business community.

[2] *Survey of Compliance Costs and Benefits of Consumer Protection Regulations,* Federal Reserve Board, 1981.

[3] *Federal Monetary Policy and Its Effect on Small Business,* H.R. Report of the Committee on Small Business, September 1980.

[4] *Survey of Commercial Bank Lending to Small Business,* February 1982, Cynthia Glassman and Peter Struck.

[5] National Federation of Independent Businesses, survey, April 1980. The survey results relating to numbers of loans show that 83 percent of small businesses reporting a source for their most recent loan said that the source was a bank.

[6] *Federal Monetary Policy and Its Effect on Small Business,* H.R. Report of the Committee on Small Business, September 1980.

consumer or business loan can be useful to an examiner looking for unlawful discrimination, if it is possible for the examiner to determine that (1) the reasons are untruthful or (2) the reasons are not consistent with a creditor's articulated guidelines to loan officers.

The loan officer's decision on an application depends on many factors which are unique to the particular business under consideration. Consequently, it would be a very rare even where the creditor's reasons for rejecting a business loan application were patently false and contestable.

An examiner would be suspicious if the exceptions to the articulated guidelines were less frequent for a protected group than for other groups. The guidelines to loan officers are usually much more flexible for business loan applications than for consumer loan applications, because of the greater need to negotiate in the business credit market. Therefore, the detection of differences in frequency of exceptions to the guidelines granted to various groups is less likely in the case of business credit applications.

A comparison for enforcement purposes of loan rejection rates or loan terms between members of protected groups and individuals in other groups requires information about race, sex, and other appropriate characteristics of all individuals whose applications have been rejected or approved by a creditor. In order to obtain this information about applicants for business credit, either creditors must be required to observe and record the information or applicants must be asked to make voluntary disclosures. The first approach can lead to inaccuracies, and raises the issue of invasions of privacy. Both approaches would involve additional record keeping requirements, and training expenditures for creditors. Currently, no provision for obtaining this information is contained in the proposed amendments.

List of Subjects in 12 CFR Part 202

Banks, banking, Civil rights, Consumer protection, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Religious discrimination, Sex discrimination, Women.

(15 U.S.C. 1691)

By order of the Board of Governors of the Federal Reserve System, October 8, 1982.

William W. Wiles,

Secretary of the Board

[FR Doc. 82-28356 Filed 10-14-82; 8:45 am]

BILLING CODE 6210-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Record of Securities and Property Received From Customers and Option Customers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend rule 1.36(a) which, among other things, requires a clearing organization which accepts customer securities and/or property from a futures commission merchant ("FCM") to furnish that FCM with an acknowledgment that the clearing organization has been notified that such securities and/or property belong to a particular customer. Under this proposed amendment, the clearing organization would no longer be required to acknowledge the particular owner of such securities and/or property; instead, it would be obligated to acknowledge only that such property belongs to that FCM's customers. This amendment is being proposed because the adoption of the Bankruptcy Code, which requires specifically identifiable property to be distributed pro rata, obviates an acknowledgment as to the identity of its owner. Such an acknowledgment was formerly necessary because a customer could reclaim specifically identifiable property in full free of the pro rata distribution of an estate.

DATE: Comments on the proposed rule should be submitted by November 29, 1982.

FOR FURTHER INFORMATION CONTACT: Andrea M. Corcoran, Chief Counsel, Division of Trading and Markets, or Suzanne W. Ryder, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

Commission regulation 1.36(a), 17 CFR 1.36(a) (1981), imposes certain recordkeeping obligations on both FCMs and clearing organizations with respect to securities and property received by them from customers [1] in lieu of money to margin, purchase, guarantee, or secure their commodity or commodity option transactions.[2] By this proposal, the Commission would modify the information which clearing organizations would be required to obtain. Specifically, rule 1.36(a) requires, in pertinent part, that each FCM which deposits with a clearing organization any securities and/or property received by it to margin or secure the commodity transactions of a particular customer must obtain written acknowledgment from that clearing organization that such entity was informed that the securities or property belong to a particular customer.[3] It is the Commission's view that the acknowledgment required from a clearing organization as to its knowledge of the identity of the particular customer is no longer necessary in light of certain provisions of the new Bankruptcy Code [4] which was adopted as part of the Bankruptcy Reform Act of 1978.[5] ("Bankruptcy Code" or "new bankruptcy law").

II. Background

Section 60(e) of the former bankruptcy law,[6] the Chandler Act of 1938 ("Old Bankruptcy Act" or "old bankruptcy law"), created a right in customers of stockbrokers to reclaim in full any "specifically identifiable property" in

[1] As used in this release, the term "customer" includes both futures and options customers.

[2] As used in this release, the term "commodity transaction" includes both futures and options transactions.

[3] Regulation 1.36(a) currently provides:

(a) Each futures commission merchant shall maintain, as provided in § 1.31, a record of all securities and property received from customers or option customers in lieu of money to margin, purchase, guarantee, or secure the commodity or commodity option transactions of such customers or option customers. Such record shall show separately for each customer or option customer: a description of the securities or property received; the name and address of such customer or option customer; the dates when the securities or property were received; the identity of the depositories or other places where such securities or property are segregated; the dates of deposits and withdrawals from such depositories; and the dates of return of such securities or property to such customer or option customer, or other disposition thereof, together with the facts and circumstances of such other disposition. In the event any futures commission merchant deposits with the clearing organization of a contract market, directly or with a bank or trust company acting as custodian for such clearing organization, securities and/or property which belong to a particular customer or option customer, such futures commission merchant shall obtain written acknowledgment from such clearing organization that it was informed that such securities or property belong to a particular customer or option customer. Such acknowledgment shall be retained as provided in § 1.31.

[4] 11 U.S.C. 101 *et seq.* (Supp. IV 1980). Unless otherwise noted, all citations to 11 U.S.C. —— are to the 1980 edition.

[5] Pub. L. No. 95-598, 92 Stat. 2549 (1978).

[6] The Act of June 22, 1938, c. 575, 52 Stat. 840; 11 U.S.C. 96(e) (1976).

the possession of their broker in the event of its bankruptcy. All other securities or other property in the possession of the broker held on behalf of its customers were subject to a pro rata distribution in bankruptcy so that if the value of the bankrupt estate was less than the aggregate value of all such claims, customers were only entitled to the return of their proportional share of the estate. The specifically identifiable property of customers was not subject to a proportional distribution. It was possible in applying the Old Bankruptcy Act that this concept of specifically identifiable property would be used by the courts in cases of bankruptcies of commodity brokers as well.[7] Thus, in recognition of this possibility and to protect a customer's potential right to reclaim in full the specifically identifiable property held on his behalf by a clearing organization without diminishing the pro rata claims of other customers, regulation 1.36(a) contained the requirement that clearing organizations which accepted customer property must acknowledge that they had been informed of the identity of the owner of such property.

III. Need for Amendment to § 1.36(a)

The new bankruptcy law, however, not only contains provisions in Subchapter 7 of Chapter 4 specifically governing the bankruptcies of commodity brokers, but also eliminates any preferential treatment of specifically identifiable property. Section 766(h) of the Code [8] subjects all property of commodity customers to a pro rata distribution, including specifically identifiable property. Although customers retain some control over the disposition of specifically identifiable property (*e.g.*, customers can request its return), Section 766(c) [9] provides that such property may only be returned or transferred on behalf of a customer to the extent that its value does not exceed the customer's proportional share of the estate. Thus, to obtain the return or transfer of specifically identifiable property which exceeds in value a customer's pro rata share, Section 766(d) of the Code [10] requires the customer to deposit cash with the trustee equal to the difference between the value of such property and his ratable share of the estate.[11] Moreover, even this difference in the treatment accorded specifically identifiable property will be minimized if the Commission's narrow view of what constitutes specifically identifiable property, contained in a rule proposal which would implement the Bankruptcy Reform Act of 1978 with respect to commodity brokers, is adopted.[12] This definition would have the practical result that, in general, customer non-cash deposits of margin would be treated as fungible and not as specifically identifiable property. basically anything a clearing organization would accept as margin would not be treated as specifically identifiable thereunder.

* * * * *

Thus, under current bankruptcy law, commodity customers who deposit cash as margin and those who deposit securities or other property should be treated identically in terms of their entitlement to share in the estate in the event of the bankruptcy of their FCM. The Commission therefore believes that it is no longer necessary to require clearing organizations to acknowledge the specific ownership of non-cash property held by them for customers. The proposed amendment would, of course, continue to require a clearing organization to acknowledge to an FCM that customer property of that FCM in its possession belongs to the customers generally of that FCM, but the clearing organization would not be required to be informed of the particular owners with the attendant impact that knowledge has, under Section 4d(2) of the Commodity Exchange Act, as amended ("Act"), and Commission rule 1.22 thereunder,[13] concerning the use of such margin by the clearing organization. As such, the amendment, if adopted, should not only relieve clearing organizations of an unnecessary recordkeeping obligation, but should also increase their willingness to accept non-cash property as original margin consistent with the Commission's segregation requirements.[14]

The Commission notes that regulation 1.36(a) also requries FCMs to record the identity of any customer who owns securities and/or property accepted by that FCM to margin or secure the customer's commodity transactions. This proposal will in no way alter that requirement as it remains essential to an FCM's ability to separately account for customer funds and to comply with the Commission's segregation requirements.[15]

IV. Compliance with Proposed Amendment

Because this proposed amendment would relieve clearing organizations of an existing recordkeeping burden which has become obsolete, opportunity for comment is, in the Commission's view, unnecessary under the Administrative Procedure Act.[16] Nevertheless, it is the Commission's policy to request public comment whenever it is practicable to do so; thus, this revision to § 1.36(a) is being offered as a proposed rule. However, the Commission has authorized the Division of Trading and Markets to take a no-action position with respect to any clearing organization which complies with § 1.36(a) as proposed to be amended, rather than in its current form, subject to any modification which the Commission may make in it final rule, and subject to the following condition.

Pending adoption of a final rule, each clearing organization electing to comply with the proposed amendment to § 1.36(a) must include in its written acknowledgment to the FCM a declaration stating generally that the FCM has advised such clearing

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[7] For a case so holding based on the bankrputcy law which preceded the Chandler Act, *see Matter of Rosenbaum Grain Corp.*, 112 F.2d 315 (7th Cir. 1940), cited in 3 Collier [Part 2], *On Bankruptcy*, ¶ 60.73 at 1168, n. 9 [14th ed. 1977]. The court stated in that case that "[t]he relationship of a commodity futures broker and his customer is analogous to that of the stock broker and his customer. The same law applies to one as to the other." 112 F.2d at 318.

[8] 11 U.S.C. 766(h).

[9] 11 U.S.C. 766(c).

[10] 11 U.S.C. 766(d).

[11] *See also* § 190.08(d) of the Commission's proposed Part 190 regulations which would implement the Bankruptcy Reform Act of 1978 insofar as it pertains to the liquidation of commodity firms. 46 FR 57535, 57567 (Nov. 24, 1981).

[12] *See* proposed rule 190.01(*11*), *id.* at 57558, which states in pertinent part:

"Specifically identifiable property" means:

(1) With respect to the following property received, acquired, or held by or for the account of the debtor from or for the account of a customer to margin, guarantee or secure an open commodity contract:

(i) Any security which as of the filing date is:

(A) Held for the account of a customer;

(B) Registered in such customer's name;

(C) Not transferable by delivery; and

(D) Not a short term obligation; or

(ii) Any warehouse receipt, bill of lading or other document of title which as of the filing date:

(A) Can be identified on the books and records of the debtor as held for the account of a particular customer; and

(B) Is not in bearer form and not otherwise transferable by delivery.

[13] 7 U.S.C. 6d(2) (Supp. III 1979); 17 CFR 1.22 (1981). These provisions, among other things, preclude the use of one customer's funds to purchase, margin, or settle the trades, contracts, or commodity options of, or to secure or extend the credit of, any person other than such customer.

[14] *See generally* Commission regulations 1.20–1.30, 17 CFR 1.20–1.30 (1981).

[15] *Id.* and the Segregation Interpretations issued thereunder by the Division of Trading and Markets. *See also Commodity Futures Trading Commission v. Commodity Resources, Inc., and Balfour Maclaine, Inc.*, 81 Civ. 2431 (S.D.N.Y., Nov. 20, 1981) (consent order of permanent injunction and final judgment).

[16] 5 U.S.C. 553(b) (1976).

organization that those customers depositing securities or property as margin have been informed and understand that they may not be able to claim that such property is specifically identifiable and seek the return thereof (rather than the value thereof) in bankruptcy. The affected parties may develop whatever specific procedures may be necessary in order to satisfy this requirement. Upon promulgation of the Commission's final bankruptcy rules which are anticipated to be completed before the end of the first quarter of fiscal year 1983, the question of the scope of specifically identifiable property will be settled and such a requirement will no longer be necessary.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")[17] requires that agencies, in proposing rules, consider their impact on small businesses. In a policy statement published last April, the Commission established definitions of small entities to be used by the Commission in connection with the FRA.[18] The Commission concluded that contract markets were not small entities based in part on factors such as the high volume of transactions conducted on designated contract markets, the self-regulatory responsibilities of such organization's under the Act and the Commission's regulations, and their significant financial resources.

Additionally, far from imposing new obligations on clearing organizations of contract markets, this proposal would relieve them of an existing recordkeeping burden. This proposal, if adopted, may also serve to reduce the cost of doing business for some FCMs if clearing organizations become more willing to accept non-cash property as margin upon the adoption of this amendment as proposed. Accordingly, pursuant to Section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comment from any firm which believes that promulgation of this rule would have a significant economic impact on it.

VI. Paperwork Reduction Act

Commission regulation 1.36(a) has previously been issued a control number, 3038-0024, pursuant to the Paperwork Reduction Act of 1980, Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*). As noted above, rather than increasing a paperwork burden, this amendment would reduce an existing recordkeeping obligation. The Office of Management and Budget has been notified of that fact, and a copy of this **Federal Register** notice has been provided to that agency.

List of Subjects in 17 CFR Part 1

Clearing organization, Recordkeeping, Segregation of customer funds.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act, and in particular, Sections 4d, 5a, 8a and 20,[19] thereof, 7 U.S.C. 6d, 7a, 12a and 24, the Commission hereby proposes to amend Chapter 1 of Title 17 of the Code of Federal Regulations as indicated below.

Section 1.36 is proposed to be amended by revising paragraph (a) as follows:

§ 1.36 Record of securities and property received from customers and option customers.

(a) Each futures commission merchant shall maintain, as provided in § 1.31, a record of all securities and property received from customers or option customers in lieu of money to margin, purchase, guarantee, or secure the commodity or commodity option transactions of such customers or option customers. Such record shall show separately for each customer or option customer: A description of the securities or property received; the name and address of such customer or option customer; the dates when the securities or property were received; the identity of the depositories or other places where such securities or property are segregated; the dates of deposits and withdrawals from such depositories; and the dates of return of such securities or property to such customer or option customer, or other disposition thereof, together with the facts and circumstances of such other disposition. In the event any futures commission merchant deposits with the clearing organization of a contract market, directly or with a bank or trust company acting as custodian for such clearing organization, securities and/or property which belong to a particular customer or option customer, such futures commission merchant shall obtain written acknowledgment from such clearing organization that it was informed that such securities or property belong to customers or option customers of the futures commission merchant making the deposit. Such acknowledgment shall be retained as provided in § 1.31.

* * * * *

Issued in Washington, D.C., on October 8, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-28468 Filed 10-14-82; 8:45 am]

BILLING CODE 6351-01-M

[17] Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*

[18] 47 FR 18618-21 (April 30, 1982).

[19] Section 20 of the Act, formerly Section 19, has been redesignated by Section 20 of the amendments to the Bankruptcy Code enacted into law July 27, 1982, Pub. L. No. 97-222, 96 Stat. 235, 241.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0341]

Riboflavin and Riboflavin-5-Phosphate (Sodium); Proposed Affirmation of GRAS Status; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that proposed to affirm riboflavin and riboflavin-5'-phosphate (sodium) as generally recognized as safe. The document appeared in the **Federal Register** of September 14, 1982.

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

SUPPLEMENTARY INFORMATION: In FR Doc. 82-24945 appearing at page 40448 in the issue for Tuesday, September 14, 1982, the following corrections are made:

1. On page 40448, second column, tenth line, change the word "nutrients" to the words "nutrient supplements".

2. On page 40449, second column, fourth full paragraph, fifth and tenth lines, change the word "nutrients" to the words "nutrient supplements".

3. On page 40450:

a. In the first column, twelfth line of the second full paragraph, remove the word "adverse".

§ 184.1695 [Corrected]

b. In the second column, in § 184.1695 *Riboflavin,* in paragraph (c)(1), add the word "supplement" after the word "nutrient".

§ 184.1697 [Corrected]

c. In the third column, in § 184.1697 *Riboflavin-5'-phosphate (sodium)*, in paragraph (c)(1), add the word "supplement" after the word "nutrient".

Dated: October 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28205 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 78N-0023]

Gras Status of Ammonium Bicarbonate, Ammonium Carbonate, Ammonium Chloride, Ammonium Hydroxide, and Mono- and Dibasic Ammonium Phosphate

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is tentatively affirming that ammonium bicarbonate, ammonium carbonate, ammonium chloride, ammonium hydroxide, and mono- and dibasic ammonium phosphate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. FDA is publishing this document as a tentative final rule because of a change in food-grade specifications, and because the agency is not including the levels of use or the food categories that appeared in the proposal. The agency is offering an opportunity to comment on these changes.

DATE: Comments on the revisions made to the regulations and issued as part of this tentative final rule by December 14, 1982.

ADDRESS: Written comments 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: Hortense S. Macon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 4, 1978 (43 FR 14064), FDA published a proposal to affirm that ammonium bicarbonate, ammonium carbonate, ammonium chloride, ammonium hydroxide, and mono- and dibasic ammonium phosphate are GRAS for use as direct human food ingredients, and that ammonium chloride and ammonium hydroxide are GRAS for use as indirect human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on ammonium salts and of the report of the Select Committee on GRAS Substances (the Select Committee) on these substances have been made available for public review in the Dockets Management Branch (address above). Copies of the documents have also been made available for public purchase from the National Technical Information Service as announced in the proposal.

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

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

No reports of prior-sanctioned uses for ammonium salts were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for uses of ammonium salts under conditions different from those set forth in this tentative final rule has been waived.

Thirteen comments on the proposal and on ammonium salts, raising eight issues, were submitted to FDA. A summary of the comments and the agency's responses to them follow:

1. Four comments were received requesting modifications of various maximum use levels proposed for ammonium salts in baked goods, hard candy, and soft candy as pH control agents. Two other comments requested the establishment of an "all other foods" category for each of the ammonium salts.

The central issues raised by these comments are now moot because FDA has reconsidered its proposal to establish maximum levels and food categories for the food use of ammonium salts and has decided not to include these conditions of use in the GRAS affirmation regulations for these ingredients. The GRAS status of these ammonium salts is based on a history of safe use in food. Both the Federation of American Societies for Experimental Biology (FASEB) and the agency have concluded that a large margin of safety exists for the use of these substances, and that any reasonably foreseeable increase in the level of consumption of these ammonium salts will not adversely affect human health. Therefore, the agency has decided to affirm the GRAS status of these ingredients when they are used under current good manufacturing practice (CGMP) conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of these substances is based on the evaluation of currently known uses, the regulations set forth the technical effects that FDA evaluated.

In the judgment of FDA, its decision not to include levels of use and food categories does not represent a major departure from the proposed regulation. The levels of use included in the proposal were never intended to be specific limitations, and the proposal was not intended to preclude the use of these ammonium salts in any food category. In addition, although the proposal did not reflect that these ammonium salts are used in all food catergories, the comments submitted to the agency establish that such widespread use of these substances in fact exists. However, to afford interested persons the opportunity to comment on the agency's decision, FDA is issuing this tentative final rule under § 10.40(f)(6) (21 CFR 10.40(f)(6)). FDA will review any comments relevant to the removal of the levels of use and food categories that it receives within the 60-day comment period and will issue in the **Federal Register** either an announcement that this tentative final rule has become final or an announcement of modification to this rule made on the basis of the new comments.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or

186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

2. One comment recommended approval of an additional method of manufacturing ammonium chloride. Under this method, hydrogen is burned in chlorine to form hydrogen chloride. The hydrogen chloride is then dissolved in water, producing hydrochloric acid. Ammonia is added, producing ammonium chloride, which is purified by crystallization.

FDA notes that gaseous hydrogen, chlorine, and ammonia used in this process are usually 99.5 percent pure. Ammonium chloride produced by this process should meet or exceed the specifications for ammonium chloride in the Food Chemicals Codex, 3d Ed. (1981). Therefore, FDA is amending the tentative final rule to include this method of manufacturing food-grade ammonium chloride.

3. One comment requested the listing of ammonium phosphate (monobasic) as a pH control agent on the basis of its listing as a buffer in the Food Chemicals Codex.

FDA has confirmed that ammonium phosphate (monobasic) is listed as a buffer in the Food Chemicals Codex. Therefore, the agency has amended § 184.1141b(c)(1) to reflect the use of this ingredient as a pH control agent (21 CFR 170.3 (o) (23)).

4. One comment requested that FDA allow the substitution of ammonium phosphates for alkali metal (sodium and potassium) phosphates.

Sodium and potassium phosphates are subject to a proposal published in the **Federal Register** of December 18, 1979 (44 FR 74845). Because the alkali metal phosphates and their technical effects in the foods in which they are used are so numerous, FDA cannot evaluate the safety of substituting ammonium phosphates for alkali metal phosphates without additional data. Therefore, the agency denies the request to affirm ammonium phosphates to the same extent as the alkali metal phosphates.

5. One comment requested affirmation of additional technical effects for ammonium carbonate and ammonium bicarbonate in the processing of certain standardized cacao and chocolate products, including cacao nibs (21 CFR 163.110), chocolate liquor (21 CFR 163.111), and breakfast cocoa (21 CFR 163.112). The standards of identity for these products specify that ammonium carbonate and ammonium bicarbonate are used as optional alkali ingredients. The comment also requested that the affirmed technical effects of these ingredients in cacao and chocolate products be expanded from pH control agents to colors and color adjuncts, flavor enhancers, flavoring agents and adjuncts, and processing aids.

FDA denies this request for expansion of the technical effects permitted for certain standardized uses of ammonium carbonate and ammonium bicarbonate. FDA acknowledges that ammonium carbonate and ammonium bicarbonate are permitted for use as alkali ingredients in the manufacture of cacao and chocolate products, as described in the standards of identity in Part 163 (21 CFR Part 163). Part 163 provides for the use of these compounds in the alkalizing or Dutching process in the manufacture of cacao products. This process may be accompanied by secondary effects of color darkening, color shading, and flavor moderation, but the primary technical effect is pH control. The agency therefore concludes that pH control adequately describes this use.

6. One comment requested that levels for all ammonium salts be based on ammonium ion equivalency.

The agency is amending the proposed rule to permit the use of ammonium salts in foods under CGMP without specifying food categories or levels of use. This change in the tentative final rule makes the concern expressed by this comment moot.

7. Two comments requested clarifications on the use of ammonium hydroxide as a boiler water additive. The comments cited previous FDA opinion letters, some of which differed on the regulatory status of ammonium hydroxide, particularly with regard to the conditions of safe use of this substance as a boiler water additive. Specific areas of confusion included whether the ingredient was prior-sanctioned, and whether milk and dairy products require different conditions for safe use of this substance.

FDA regrets the confusion that has existed concerning the use of ammonium hydroxide as a boiler water additive. The agency can find no evidence of a prior sanction for this use of ammonium hydroxide. Because of the comments the agency has received, however, FDA has reevaluated the safety data presented in the proposal on the use of ammonium hydroxide. The summitted information indicates that CGMP for use of ammonium hydroxide as a boiler water additive results in approximately 10 parts per million of ammonia in the steam that comes in contact with food. As a result, FDA concludes that sufficient safety data exist to affirm ammonium hydroxide as GRAS for use as a boiler water additive in food-contact uses involving all foods, including milk and milk products, subject to CGMP. This use as a boiler water additive is therefore included among the technical effects affirmed as GRAS in this tentative final rule.

Subsequent to the publication of the proposal, FDA became aware of an additional current use of ammonium chloride through an FDA field inspection report. This use consists of the addition of small amounts of ammonium chloride to commercially manufactured blocks of ice to retard chipping, cracking, and clouding. FDA issued a letter dated March 24, 1960, stating that ammonium chloride is GRAS for use in ice. In addition, USDA issued a letter dated June 26, 1969, approving the use of ammonium chloride in ice that comes into contact with meat and poultry products. FDA has evaluated the safety of the use of ammonium chloride in ice and concludes that it may be affirmed as GRAS subject to CGMP. This use as a processing aid is therefore included among the technical effects affirmed as GRAS in this tentative final rule.

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary and, as a general rule, may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of ammonium chloride and ammonium hydroxide. The indirect uses of these substances would be authorized under §§ 184.1138, 184.1139, and 184.1(a).

In the case of ammonium chloride and ammonium hydroxide, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in

accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of these ingredients. Therefore, the agency has not proposed any specific purity specifications for their indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

FDA has also modified this tentative final rule to reflect publication of specifications for these ammonium salts in the new Food Chemicals Codex, 3d Ed. Except for ammonium chloride and mono- and dibasic ammonium phosphate, no differences exist between the specifications referenced in the proposal and those adopted in the 3d Ed. The assay requirement for ammonium chloride was decreased from 99.5 percent to 99.0 percent in the 3d Ed. FDA is of the opinion that this change is minor, and that it will not affect the safety of food-grade ammonium chloride. In addition, the prescribed method for the analysis of fluoride in the two phosphate salts was changed to a more modern method in the 3d Ed. FDA is of the opinion that this change is desirable and is consistent with the agency's encouragement to update regulatory methods in accord with the state-of-the-art. The agency is however, offering an opportunity for comment on these changes.

The format of the regulations included in this tentative final rule is different from that in the proposal and in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1135, 184.1137, 184.1138, 184.1139, 184.1141a, and 184.1141b to make clear the agency's determination that these ingredients may be used in food with no limitation other than current good manufacturing practice, including the technical effects listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect this tentative final rule would have on small entities including small businesses. Because the tentative final rule imposes no new restrictions on the use of these ingredients, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this tentative final rule, and the agency has determined that the final rule, if promulgated from this tentative final rule, would not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

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

21 CFR Part 184

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

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

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182:

§ 182.90 [Amended]

a. By amending § 182.90 *Substances migrating to food from paper and paperboard products* by removing from the list the entries "Ammonium chloride" and "Ammonium hydroxide."

§ 182.1135 [Removed]

b. By removing § 182.1135 *Ammonium bicarbonate.*

§ 182.1137 [Removed]

c. By removing § 182.1137 *Ammonium carborate.*

§ 182.1139 [Removed]

d. By removing § 182.1139 *Ammonium hydroxide.*

§ 182.1141 [Removed]

e. By removing § 182.1141 *Ammonium phosphate.*

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

2. In Part 184: a. By adding new § 184.1135, to read as follows:

§ 184.1135 Ammonium bicarbonate.

(a) Ammonium bicarbonate (NH_4HCO_3, CAS Reg. No. 1066–33–7) is prepared by reacting gaseous carbon dioxide with aqueous ammonia. Crystals of ammonium bicarbonate are precipitated from solution and subsequently washed and dried.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 19, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave., NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter; leavening agent as defined in § 170.3(o)(17) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

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

b. By adding new § 184.1137, to read as follows:

§ 184.1137 Ammonium carbonate.

(a) Ammonium carbonate ($(NH_4)CO_3$, CAS Reg. No. 8000–73–5) is a mixture of ammonium bicarbonate (NH_4HCO_3) and ammonium carbamate (NH_2COONH_4)). It is prepared by the sublimation of a mixture of ammonium sulfate and calcium carbonate and occurs as a white power or a hard, white or translucent mass.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 19, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good

manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a leavening agent as defined in § 170.3(o)(17) of this chapter and pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

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

c. By adding new § 184.1138, to read as follows:

§ 184.1138 Ammonium chloride.

(a) Ammonium chloride (NH_4Cl, CAS Reg. No. 12125–02–9) is produced by the reaction of sodium chloride and an ammonium salt in solution. The less soluble sodium salt separates out at elevated temperatures, and ammonium chloride is recovered from the filtrate on cooling. Alternatively, hydrogen chloride formed by the burning of hydrogen in chlorine is dissolved in water and then reacted with gaseous ammonia. Ammonium chloride is crystallized from the solution.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 20, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter; flavor enhancer as defined in § 170.3(o)(11) of this chapter; leavening agent as defined in § 170.3(o)(17) of this chapter; and processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

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

d. By adding new § 184.1139, to read as follows:

§ 184.1139 Ammonium hydroxide.

(a) Ammonium hydroxide (NH_4OH, CAS Reg. No. 1336–21–6) is produced by passing ammonia gas into water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 20, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a leavening agent as defined in § 170.3(o)(17) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; surface-finishing agent as defined in § 170.3(o)(30) of this chapter, and as a boiler water additive complying with § 173.310 of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. The ingredient may also be used as a boiler water additive at levels not to exceed current good manufacturing practice.

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

e. By adding new § 184.1141a, to read as follows:

§ 184.1141a Ammonium phosphate, monobasic.

(a) Ammonium phosphate, monobasic ($NH_4H_2PO_4$, CAS Reg. No. 7722–76–1) is manufactured by reacting ammonia with phosphoric acid at a pH below 5.8.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 21, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter and pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

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

f. By adding new § 184.1141b, to read as follows:

§ 184.1141b Ammonium phosphate, dibasic.

(a) Ammonium phosphate, dibasic ($(NH_4)_2HPO_4$, (CAS Reg. No. 7783–28–0) is manufactured by reacting ammonia with phosphoric acid at a pH below 5.8.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 21, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a dough strengthener as defined in § 170.3(o)(6) of this chapter; firming agent as defined in § 170.3(o)(10) of this chapter; leavening agent as defined in § 170.3(o)(17) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

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

Interested persons may, on or before December 14, 1982, file with the Dockets Management Branch (address above) written comments regarding this tentative final regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this

document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28348 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 347

[Docket No. 78N-0021]

Skin Protectant Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; and Reopening of Administrative Record

Correction

In FR Doc. 82-24422, appearing at page 39436, as Part IV, in the issue of Tuesday, September 7, 1982, make the following changes.

On page 39447, in the second column, under the heading "References", paragraph (2) the third sentence, change "3:3132" to "3:313".

On page 39447, in the 3rd column, under the heading "References", change paragraph (8) to read as follows:

(8) "Martindale, The Extra Pharmacopoeia," 26th Ed., edited by N.W. Blacow, The Pharmaceutical Press, London, England, p. 1417, 1972.

On page 39448, in the third column, in paragraph 2. Other ingredients., "Methol" to "Menthol".

BILLING CODE 1505-01-M

21 CFR Part 354

[Docket No. 80N-0228]

Drug Products for the Relief of Oral Discomfort for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In FR Doc. 82-13917, beginning on page 22712 in the issue of Tuesday, May 25, 1982, the following changes should be made:

1. On page 22713, middle column, the first line should read, "Under § 330.10(a)(1) and (5), the".

2. On page 22718, first column, the words "topical anesthetics, and they are used as dental care agents by" should be inserted between the second and third lines of paragraph 2.

3. On page 22735, first column, the fourth line of the fifth complete paragraph should read, "of skin tumors following a single initiating dose".

4. On page 22750, third column, the second line under the heading **"Category II Active Ingredients"** should read, "chloride, and edetate disodium (in".

5. On page 22753, middle column, the formula at the beginning of the third line in paragraph (16) should read, "PO_3F. Ion".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR—Ch. I

[BC Docket No. 81-742; FCC 82-433]

Formulation of Policies Relating to the Broadcast Renewal Applicant, Stemming from the Comparative Hearing Process

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Inquiry.

SUMMARY: Action taken herein invites further public comment and views in a proceeding initiated in November 1981 to formulate policies for broadcast renewal applicants in comparative hearings. The *Further Notice* Seeks comments on the matters raised in the United States Court of Appeals July 13, 1982 opinion in *Central Florida Enterprises, Inc.* v. *FCC,* particularly those relating to the need for a better definition of important terms under the Commission's comparative renewal policy. The Commission is primarily interested in exploring distinctions between "substantial" and "minimal" service of incumbent licensees.

DATES: Comments must be submitted by November 15, 1982, and reply comments by December 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sheldon M. Guttman, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

Adopted: September 29, 1982.

Released: October 1, 1982.

By the Commission:

In the matter of formulation of policies relating to the broadcast renewal applicant, stemming from the comparative hearing process, BC Docket No. 81-742.

This proceeding was initiated on November 5, 1981, when we released a notice of inquiry, 46 FR 55279, 88 FCC 2d 21, in order to obtain information and views of interested parties and the public on the comparative renewal process, and particularly on "standards for 'meritorious broadcast service' for broadcasters seeking renewal of license." 46 FR at 55280. Comments and reply comments were filed earlier this year and are now being reviewed by the Commission's staff. In the meantime, the Court of Appeals recently affirmed our decision in the Daytona Beach, Florida comparative television renewal proceeding to renew the license of the incumbent licensee and to deny the challenger's application for a construction permit for the same facilities. *Cowles Broadcasting, Inc.*, 86 FCC 2d 993 (1981), *affirmed sub nom. Central Florida Enterprises, Inc.* v. *FCC,* D.C. Cir. Case No. 81-1795, decided July 13, 1982. The Court noted with approval our justification for a renewal expectancy for broadcast licensees, *Central Florida Enterprises, Inc.* v. *FCC,* Slip Op. at p. 8, citing 86 FCC 2d at 1013, but also indicated that it was "[o]f particular importance" how the Commission in its future evaluations of an incumbent's record interprets the term "substantial" and the Court suggested the need for an intelligible definition which would facilitate judicial review and help to insure that our policy serves the interests of broadcast consumers. Slip Op. at pp. 7-9.

In light of the Court's recent opinion, we are inviting further comments from all interested parties and the public, including those who may not have previously filed comments or reply comments in this proceeding, on the matters raised in the opinion, particularly those relating to the need for a better definition of important terms under the Commission's comparative renewal policy.[1] Comments should be filed no later than November 15, 1982, and reply comments no later than December 6, 1982. All comments and reply comments should be restricted to the matters raised by the Court's opinion in *Central Florida* which are relevant to this proceeding, as more fully described in this Further Notice.[2]

[1] In our last decision in the *Cowles* case, we described a continuum involving three types of service. These are (1) "minimal," which results in no preference for the incumbent, (2) "substantial," which resulted in the preference which Cowles got and (3) "superior," which would result in an even stronger preference. 86 FCC 2d at 1012, quoted in Slip Op. at pp. 6-7. We are primarily interested in exploring a more specific distinction between "substantial" and "minimal" service.

[2] Commenting parties are free to aruge for the adoption of general percentage of numerical guidelines but, in view of our continuing belief that such an approach is not appropriate, see para. 12 in the *Notice of Inquiry* in this proceeding, parties are urged to consider other alternatives for giving content to the concept of "substantial" service.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-28404 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 73

[BC Docket No. 82-536]

Amendment of the Commission's Rules Concerning Use of the Subsidiary Communications Authorizations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and replies to comments to portions of a *Notice of Proposed Rule Making,* BC Docket 82-536, which proposed amendment of the Commission's Rules to expand the uses of subcarrier signals on transmissions by FM broadcast stations. This extension was requested by the Telocator Network of America.

DATES: Comments are due on or before December 17, 1982 and replies to comments are due on or before January 16, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Alan Stillwell, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

Adopted: October 4, 1982.

Released: October 7, 1982.

In the matter of amendment of Parts 2 and 73 of the Commission's Rules Concerning Use of the Subsidiary Communications Authorizations, BC Docket 82-536 (8-19-82; 47 FR 36235).

1. On August 4, 1982, the Commission adopted a *Notice of Proposed Rule Making,* BC Docket 82-536, proposing to amend Parts 2 and 73 of its rules to eliminate restrictions on the use and availability of subcarrier signals on the transmissions of FM broadcast stations. The *Notice* was released on August 19, 1982, with comments due by October 18, 1982, and reply comments to be received by November 17, 1982.

2. On September 24, 1982, the Telocator Network of America (Telocator) requested that the time for filing comments and replies be extended until February 18, 1983, and April 18, 1983, respectively. As an alternative, Telocator suggested that the issue of providing a paging service on FM broadcast subcarrier channels be separated from the remaining issues in the proceeding and that the period for filing comments and replies be extended solely with respect to this issue.

3. In making this request, Telocator mentioned three issues that it considers fundamental to the paging service question and to which it desires and intends to address. These issues are 1) possible degradation of an FM station's primary signal that might result from some of the proposed technical changes, 2) spectrum allocations policy and, 3) the distinction between common carrier and broadcast radio stations. Telocator submits that the time available is inadequate for itself and others to prepare their cases. It also states that the resources of Telocator and the radio common carrier industry are unusually strained at the present time due to their involvement in the preparation of applications for cellular mobile telephone systems; the processing of mutually exclusive cellular system applications; and the preparation of paging system applications for the 900 MHz band.

4. The Commission recognizes the importance in this proceeding of issues and questions involving potential FM subcarrier paging services that are similar to activities performed by some radio common carriers. We are aware that these issues are complex and may require considerable time to research and analyze. However, the Commission is also interested in expeditiously completing the FM subcarrier proceeding. Therefore, we are granting an extension of 60 days for filing comments and 30 days for reply comments with respect to issues relating to paging only.

5. We wish to emphasize that the time period for filing comments and replies concerning issues that are not related to paging services is not being extended and that such comments and replies are still due on October 18, 1982, and November 17, 1982 respectively, as stated in the *Notice.*

6. Therefore, the request of Telocator is granted to the extent indicated below and is denied in all other respects. Accordingly, it is ordered, that the time for filing comments and replies to comments regarding issues and questions that relate to potential FM subcarrier paging uses in the above referenced *Notice of Proposed Rule Making,* BC Docket 82-536, is extended to and including Decemer 17, 1982 for comments and January 16, 1983 for reply comments.

7. This action is taken pursuant to authority found in Sections 4(i), 5(d)(i) and 303(r) of the Communications Act of 1934, as amended, and Sections 0.281 and 0.204(b) of the Commission's Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

[FR Doc. 82-28406 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-704; RM-4183]

FM Broadcast Station in Kingman, Arizona; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Channel 261A to Kingman, Arizona, as a second FM service, in response to a petition filed by Mohave Communications System.

DATES: Comments must be filed on or before November 22, 1982, and reply comments on or before December 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted; September 30, 1982.

Released: October 8, 1982.

In the matter of amendment of § 73.202(b), Table of Assigments, FM Broadcast Stations (Kingman, Arizona), BC Docket No. 82-704, RM-4183.

1. Mohave Communications Systems ("MCS") (petitioner) on August 5, 1982, submitted a petition for rule making which seeks the assigment of Channel 261A to Kingman, Arizona, as its second FM allocation.[1]

2. In support of the proposal, the petitioner submitted population and preclusion information. However, in view of the action taken in *Revision of FM Policies and Procedures,* 90 F.C.C. 2d 88 (1982), these issues were eliminated as a requirement to justify a non-conflicting proposal. Petitioner states that the proposed assignment would meet the minimum mileage separation requirements and that it intends to apply for Channel 261A, if assigned to Kingman.

[1] There is a pending proposal to substitute Channel 297 for Channel 224A at Kingman (BC Docket No. 82-262).

3. Since Kingman is within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires the concurrence of the Mexican Government.

4. In view of the foregoing information and the fact that the assignment would provide a second FM broadast service to Kingman, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, as follows:

City	Channel No.	
	Present	Proposed
Kingman, Ariz	224A	224A, 261A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 22, 1982, and reply comments on or before December 7, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-28407 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-705; RM-4186]

FM Broadcast Station on Rock Harbor, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule

SUMMARY: This action proposes a first FM assignment to Rock Harbor, Florida, in response to a petition filed by David and Elizabeth Freeman.

DATES: Comments must be filed on or before November 22, 1982, and reply comments on or before December 7, 1982

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Adopted: September 30, 1982.

Released: October 8, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Rock Harbor, Florida), BC Docket No. 82-705, RM-4186.

1. David and Elizabeth Freeman ("petitioners") on August 16, 1982, submitted a petition for rule making which seeks the assignment of Channel 272A to Rock Harbor, Florida, as its first FM assignment. The petitioners did not indicate that they would apply for the channel, if assigned. They are requested to do so in comments to this proposal.

2. The petitioners submitted population and economic data in an effort to demonstrate a need for the requested assignment. In view of the action taken in *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982), these issues are no longer relevant to this type of proceeding.

3. In view of the fact that the proposal could provide a first local broadcast service to Rock Harbor, comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the rules, as follows:

City	Channel No.	
	Present	Proposed
Rock Harbor, Fla		272A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before November 22, 1982, and reply comments on or before December 7, 1982, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) and this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-28408 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-357; RM-4103]

FM Broadcast Station in Terrell Hills, Texas; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein further extends the time for filing reply comments in BC Docket No. 82-357 (RM-4103) concerning a proposal to substitute FM Channel 294 for Channel 292A at Terrell Hills, Texas, and to modify the license to specify operation on the Class C channel. Counsel states that they have just been retained to represent petitioner in this matter and additional time is needed to formulate a proper response.

DATE: Reply comments must be filed on or before October 15, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 30, 1982.

Released: October 6, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Terrell Hills, Texas), BC Docket No. 82-357 RM-4103.

1. On June 28, 1982, the Commission adopted a *Notice of Proposed Rule Making*, 47 FR 31016, published July 16, 1982, in the above-captioned proceeding. By *Order* released September 17, 1982, the time for filing reply comments was extended to October 1, 1982.

2. On September 29, 1982, counsel for S I T Broadcasting Corporation, petitioner in the above-referenced rule making proceeding, filed a motion for further extension of time to file reply comments to and including October 15, 1982. Counsel states that they have just been retained to represent petitioner in this matter and will need the additional time to prepare and file its reply comments.

3. Section 1.46(b) of the Commission's rules states that extension requests must be filed seven days in advance of the deadline. Although this request was not received within the required time frame, counsel has requested a waiver of this requirement and the Commission is of the view that, under the circumstances cited, additional time is warranted in which to formulate reply comments. Further, it appears that no other party to the proceeding would be prejudiced by the grant of the instant request and we are desirous of knowing S I T's position with respect to the comments in order to develop a sound and comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, That the time for filing reply comments in BC Docket No. 82-357 (RM-4103) is extended to and including October 15, 1982.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303 (r) and (g) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

6. For further information, contact D. David Weston, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-28405 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-441]

Amendment Concerning Subscription Television Authorization for Noncommercial Educational Television Station Licensees; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment reply comment period.

SUMMARY: In order to allow interested parties sufficient time to address the issues involved in this proceeding relating to subscription television authorization for noncommercial educational television station licensees, the dates for filing comments are extended to November 10, 1982, for comments and December 10, 1982, for reply comments. This action is taken at the request of the Mohawk-Hudson Council on Education Television, Inc. and the Western New York Public Broadcasting Association.

DATES: Comments are now due by November 10, 1982 and replies by December 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Judith Herman, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

Order Granting Motion for Extension of Time To File Comments; August 19, 1982 (47 FR 36252)

Adopted: October 7, 1982.

Released: October 8, 1982.

1. On October 4, 1982, the Commission received a Motion for Extension of Time to file comments in the above-captioned matters from the Mohawk-Hudson Council on Educational Television, Inc. and Western New York Public Broadcasting Association. Petitioner requests that the date for filing comments and reply comments be extended 30 days from the present filing dates of October 11, 1982, for comments and November 11, 1982, for replies, to November 10, 1982, for comments and December 10, 1982, for replies.

2. Since this rule making involves a number of important issues, the Commission wishes to assure parties adequate time in which to prepare their views. The Commission is interested in obtaining a full and complete record in this proceeding. Therefore, the petition will be granted. Because we are granting a significant amount of additional time for filing comments, we do not anticipate that further extensions will be granted.

3. Accordingly, it is ordered, That the date for filing comments is extended to November 10, 1982, for comments, and December 10, 1982, for replies.

4. This action is taken pursuant to authority found in § 4(i) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

5. For further information concerning this proceeding, contact Judith Herman, Broadcast Bureau, (202) 632-6302.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-28463 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 200
Friday, October 15, 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

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on October 26, 1982, at 7:00 p.m., a public information meeting will be held at the Hall of Justice, Courtroom No. 2, Water Street, Statesville, North Carolina.

This meeting is being called by the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the request by the Wachovia Bank and Trust Company for the Comptroller of the Currency to grant a certificate of authority for construction of a branch bank in Statesville, North Carolina. Construction of the branch bank will require demolition of the Sterns Building and the Madison Building, structures which contribute to the Statesville commercial Historic District, a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on the Historic District, and alternate courses of action that could avoid, mitigate, or minimize adverse effects on the Historic District.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Council.

II. A description of the undertaking by representative of the Comptroller of the Currency and the Wachovia Bank and Trust Company.

III. A statement by the North Carolina State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the undertaking and effects it will have on the Historic District.

V. A general question period.

Speakers should limit their statements to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005, telephone number, 202-254-3495. Attention: Don L. Klima.

Dated: October 12, 1982.

Thomas F. King,

Director, Office of Cultural Resource Preservation.

[FR Doc. 82-28392 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Colville National Forest; Grazing Advisory Board Meeting

The Colville National Forest Grazing Advisory Board will meet at 2:00 p.m. on November 18, 1982 at the Federal Building Conference Room, 695 South Main Street, Colville, WA 99114. The purpose of this meeting is to discuss range allotment management planning and the proposed uses of the 1983 Range Betterment Fund.

The meeting is open to the public. Persons who wish to attend should notify Gary Oliverson, Colville National Forest, at the above address. Written statements may be filed with the committee before or after the meeting.

Dated: October 7, 1982.

Gary Oliverson,

Acting Forest Supervisor.

[FR Doc. 82-28422 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-11-M

Targhee National Forest; Targhee Forest Grazing Advisory Board Meeting

The Targhee National Forest Grazing Advisory Board meeting will be held December 7, 1982, at 1:00 p.m. at the Supervisor's Office, Targhee National Forest, 420 North Bridge St., St. Anthony, ID.

The purpose of the meeting will be for the Board to make recommendations to the Forest Supervisor on range allotment planning and the use of range betterment funds scheduled for fiscal year 1983.

In accordance with the Federal Advisory Committee Act, (Pub. L. 92-463) this meeting is open to the public. Forest Supervisor John Burns requests that comments from non-board members be withheld until the conclusion of the business meeting.

For additional information, contact Phil Lee or Val Gibbs at the Targhee National Forest Supervisor's Office or telephone 208-624-3151.

John E. Burns,

Forest Supervisor.

[FR Doc. 82-28423 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-11-M

Routt National Forest Grazing Advisory Board; Notice of Meeting

The Routt National Forest Grazing Advisory Board will meet November 19, 1982, at 10:00 a.m. at the Yampa Valley Electric Association building, Steamboat Springs, Colorado.

The Agenda for the meeting will include: 1) Review range improvement needs on selected areas; 2) a discussion of the projects planned for FY 1983 utilizing range betterment funds; 3) discuss and receive advice and recommendations for the utilization of range betterment funds and development of allotment management plans for FY's 1984 and 1985.

The meeting will be open to the public. Persons who wish to attend and participate should notify Jim Webb, Routt National Forest (303-879-1722) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

October 5, 1982.

Jack Weissling,

Forest Supervisor.

[FR Doc. 82-28376 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Office of the National Advisory Council on Rural Development, Notice of Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-163), notice is hereby given that the Secretary of Agriculture has renewed the National Advisory Council on Rural Development. The purpose of the Council is to provide advice to the Secretary on the rural development needs, goals, objectives, plans, and recommendations of multi-state, State, substate, and local organizations and jurisdictions. The Council will provide the Secretary with assistance in identifying rural problems and supporting efforts and initiatives in rural development.

The Secretary has determined that the work of the Council is in the public interest and is in connection with the duties of the Department of Agriculture. No other advisory committee or agency of the department is performing the tasks assigned to the National Advisory Council on Rural Development.

FOR FURTHER INFORMATION CONTACT: Mr. Willard (Bill) Phillips, Jr., Director, Office of Rural Development Policy, Room 4128-S, United States Department of Agriculture, 12th and Independence, S.W., Washington, D.C. 20250, (202) 382-0044.

Dated: October 8, 1982.

John J. Franke, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 82-28363 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-07-M

Soil Conservation Service

Crowley's Ridge and Benton Hills RC&D Measure, Missouri

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(20)(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 measure concerns critical area treatment. The planned works of improvement include grade stabilization structures and water and sediment control basins. Associated land treatment includes grassed waterways, underground outlets, terraces, diversions, pasture and hayland planting, conservation tillage systems and critical area planting.

The Notice 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)

Dated: October 6, 1982.

Paul F. Larson,

State Conservationist.

[FR Doc. 82-28372 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-16-M

Soil Conservation Service

Alcorn Recreation RC&D Measure, Miss.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a 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 Alcorn Recreation RC&D Measure, Claiborne and Jefferson Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601-960-5205.

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, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for recreation facilities and critical area treatment. The planned works of improvement include an 89-acre lake with picnic tables, grills and benches, a picnic shelter, fishing piers, a swimming beach, family camping comfort stations, and parking areas.

The Notice of a Finding of No Significant Impact (FONSI) 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 Billy C. Griffin. The environmental assessment data are also included in the "Planning Area and Resources" section of the "Alcorn Recreation RC&D Measure Plan." Copies of this plan are available on request.

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)

Dated: October 6, 1982.

Billy C. Griffin,

State Conservationist.

[FR Doc. 82-28215 Filed 10-14-82; 8:45 am]

BILLING CODE 3410-16-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: October 27 and 28, 1982.

Time: 9:00 a.m. each day.

Place: Old Executive Office Building, Room 305; and State Department Building, Room 7516.

Type of meeting: Closed.

Contact person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632-5176.

Purpose of advisory committee: To advise the Director of the U.S. Arms Control and Disarmament Agency (ACDA) on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament and world peace.

Agenda: Will include the following discussions and presentations:

October 27

A.M. Overview of Arms Control and U.S. START and INF Positions.

P.M. Foreign Policy and National Security Implications of START and INF.

October 28

A.M. Strategic Implications of START and INF.

Reason for closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign relations (collectively referred to as national security).

Authority to close meeting: These members are within Exemption 1 of 5 U.S.C. 552b(c) Government in the Sunshine Act. The closing of this meeting is in accordance with the determination by the Director of the U.S. Arms Control and Disarmament Agency, dated October 4, 1982, pursuant to the provision of Section 10(d) of Pub. L. 92-463.

John E. Grassle,

Committee Management Officer.

[FR Doc. 82-27980 Filed 10-14-82; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Order No. 41-1 (Amdt. 5) D.O.O. Reference, 10-3, 40-1]

Organization and Function Order

August 22, 1982.

ITA Organization and Function Order 41-1 of February 15, 1982, as amended, is further amended to consolidate and redefine functions of the Offices reporting to the Deputy Assistant Secretary for Trade Information and Analysis.

1. Part VII, Section 2.04 is amended to read:

".04 The *Deputy Assistant Secretary for Trade Information and Analysis* manages the development and dissemination of international trade and economic data, research and analysis for use by ITA policy makers, other U.S. government agencies and external users; directs a program to analyze and report on international investment; manages the development and dissemination of timely international trade information of commercial use to exporters, including the development of appropriate ADP and user fee systems and procedures; and provides user support to other units in Trade Development and ITA for the automation of trade information. The DAS directs the following offices:

a. The *Office of Trade and Investment Analysis* develops and implements policies relating to foreign direct investment in the U.S.; directs the accomplishment of analysis and reporting requirements in accordance with the International Investment Survey Act of 1976 and Executive Orders 11858 and 11961; conducts statistical and analytical studies of trade between the U.S. and foreign economies and related trade issues and policies; and maintains a program providing trade and trade-related data to both government and private sector users.

b. The *Office of Trade Information Services* gathers and disseminates commercial trade-related information to users in business and government; develops trade information products and services in response to user needs and changes in the U.S. international trade position; develops and implements user fee objectives and procedures which aim to recover costs associated with providing such information; provides services and support to the U.S. and Foreign Commercial Services and other ITA units relating to dissemination of trade information through the Automated Information Transfer System (AITS) or other methods; and undertakes a program of research to identify the mix of industries, products and foreign markets that represent an optimum focus for trade development programs.

c. The *Office of Program Information Management* directs the design, development and maintenance of computer-assisted information systems for the management and use of trade information; develops and manages a planning system to assure the long-range effectiveness of trade program information management throughout Trade Development; builds the computer literacy of executives, managers, and other personnel; locates, defines, evaluates and implements user applications; has direct management responsibility for the Trade Policy Information System, the Automated Information Transfer System and other systems in the Office of Program Information Management; and has advisory managment responsibility for other trade information management systems elsewhere in the International Trade Administration.

2. The attached organization chart [1] supersedes the chart attached to Amendment 3 to ITA Organization and Function Order 41-1 of May 18, 1982.

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-28428 Filed 10-14-82; 8:45]

BILLING CODE 3510-25-M

[Order No. 41-1 (Amdt. 4), D.O.O. Reference 10-3, 40-1]

Organization and Function Order

Effective date: July 21, 1982.

ITA Organization and Function Order 41-1 of February 15, 1982, as amended (47 FR 14205, 47 FR 19570, 47 FR 25985) is further amended to delegate jointly to the Assistant Secretary for Trade Development and the Director General of the U.S. and Foreign Commercial Services the authority of the Under Secretary to establish an information clearinghouse for the dissemination of business and international economic information.

1. Part IV, Section 1.01 is amended by striking the "and" at the end of subparagraph c., changing the period at the end of subparagraph d. to "; and", and adding a new subparagraph e. to read as follows:

"e. Chapter 23 of Title 15, United States Code, which pertains to a clearinghouse for technical information, as is necessary to carry out assigned responsibilities dealing with the preparation and dissemination of business and international economic information."

2. Part IV, Section 1.01 is amended by striking the "and" at the end of subparagraph t., changing the period at the end of subparagraph u. to "; and", and adding a new subparagraph v. to read as follows:

"v. Chapter 23 of Title 15, United States Code, which pertains to a

clearinghouse for technical information, as is necessary to carry out assigned responsibilities dealing with the preparation and dissemination of business and international economic information."

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-28421 Filed 10-14-82; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council, Incentives/Disincentives Subcommittee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade. The Incentives/Disincentives Subcommittee was formed by the Council to study, and make recommendations on, incentives and disincentives to export trade.

TIME AND PLACE: November 1, 1982, from 1:00–5:00 p.m. The meeting will be held at the Department of Commerce, 14th & Constitution Avenue, N.W., Room 4830, Washington, D.C. 20230.

AGENDA: Opening Remarks. Task Force and status reports on: DISC; Extraterritoriality of U.S. Laws; Other task force reports and issues of current interest. General Discussion and Public Comment.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Elisabeth Maatsch, Room 3213, U.S. Department of Commerce, Washington, D.C. 21230. Telephone: (202) 377-1125.

Dated: October 12, 1982.

Henry Misisco,

Acting Director, Office of Policy and Coordination.

[FR Doc. 82-28462 Filed 10-14-82; 8:45 am]

BILLING CODE 3510-25-M

Committee for the Implementation of Textile Agreements

Announcing Additional Officials of Government of Mexico Authorized To Issue Export Visas and Exempt Certifications for Certain Cotton, Wool, and Man-Made Fiber Textile Products

October 12, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing new officials of the Government of Mexico who are authorized to issue export visas and exempt certifications for certain cotton, wool, and man-made fiber textile products, produced or manufactured in Mexico.

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico, the Government of Mexico has notified the United States Government that the following officials have been authorized to issue export visas and exempt certifications for certain cotton, wool, and man-made fiber textile products produced or manufactured in Mexico and exported to the United States. These officials are in addition to those previously so authorized:

C. P. Ma. Guadalupe Perez Alvarado
Roberto Vargas Brito
Joaquin Lozano Chavez
Antonio Gonzalez Cue
Jorge Montiel Hernandez
Margarita Aparicio Hernandez
Miguel Angel Hernandez
Alberto Diaz Lopez
Radames Calva Lopez
Antonio Garcia Martinez
Alma Rosa Curiel Montiel
Fernando Aurelio Avila Nava
Reyna Ramirez Nieves
Manuel Pereyra Novelo
Gabriel Oseguera Olvera
Carlos Fco. Ostos O.
Hugo Humberto Villarreal Pena
Jose Carmelo Gutierrez Ramos
Floriberto Patino Rivera
Ruben Morales Ruiz
Arnulfo Pulgarin Soto
Adan Ravelero Vazquez
C. Miguel Angel Rueda Young

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On May 20, 1981, a letter dated May 15, 1981 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (46 FR 27516) which established a new export visa requirement and exempt certifiation for certain cotton, wool, and man-made fiber textile products, produced or manufactured in Mexico and exported to the United States. One of the requirements is that the visas and exempt certifications must be signed by an official authorized by the Government of Mexico. The Government of Mexico has designated 23 new officials to issue these documents in addition to those named in the letter of May 15, 1981 to the Commissioner of Customs. The signatures of the 23 new officials are filed as part of the original document with the Office of the Federal Register. A complete list of Mexican officials who are currently authorized to issue visas and exempt certifications follows this notice. The new lists omits the name of Jorge Mendez Juarez, who is no longer authorized to issue these documents.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of Mexico Authorized To Issue Export Visas and Exempt Certifications for Textile and Apparel Products Exported to the United States

Leopoldo Diaz Aldecoa
C. P. Ma. Guadalupe Perez Alvarado
Javier Inzunza Angulo
Ruben Ramirez Banda
Roberto Vargas Brito
Joaquin Lozano Chavez
Jorge Luis Robles Contreras
Serafin Martinez Cruz
Antonio Gonzalez Cue
Ernesto B. Ascencio Esparza
Carlos McGregor Garate
Angel Francisco Marroquin Garza
Bolivar Hernandez Garza
Argimiro Reyes Genis
Jorge Montiel Hernandez
Jose Serralta Hernandez
Margarita Aparicio Hernandez
Miguel Angel Hernandez
Gerardo Solis Laredo
Rafael Ney Lizardi
Alberto Diaz Lopez
Pedro Lechuga Lopez
Radames Calva Lopez
Rogelio Lopez Lucio
Antonio Garcia Martinez
Jose Luis Ferretis Martinez
Alfredo Ortega Mena
Hector M. Pastrana Mendivil
Gerardo Pesqueira Mendoza
Alma Rosa Curiel Montiel
Yolanda Perez Munoa
C. P. Delfino Gonzalez Munoz
Fernando Aurelio Avila Nava
Reyna Ramirez Nieves
Manuel Pereyra Novelo
Gabriel Osequera Olvera
Carlos Fco. Ostos O.
Guillermo Teutli Otero
Hugo Humberto Villarreal Pena

Jose Carmelo Gutierrez Ramos
Octavio Ascencio Reynoso
Carlos E. Martinez Rivera
Floriberto Patino Rivera
Miguel A. Rivera V.
Hedilberto Cobos Rodriguez
Ruben Morales Ruiz
Arnulfo Pulgarin Soto
Adan Ravelero Vazquez
C. Miguel Angel Rueda Young

[FR Doc. 82-28464 Filed 10-14-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1982 services to be provided by and commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: October 15, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 23, 1982 and August 20, 1982, the Committee for Purchase From the Blind and Other Severely Handicapped published notices (47 FR 31915 and 47 FR 36468) of proposed additions to and deletions from Procurement List 1982, November 12, 1981 (46 FR 55740).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1982:

SIC 7331

Mailing Service, Department of Treasury, Bureau of Public Debt, 14th and C Streets, S.W., Washington, D.C.

SIC 7349

Janitorial/Custodial (Grass Cutting), U.S. Army Reserve Centers, Williamsburg, Virginia, Maracella Road, Hampton, Virginina, Butler Farm Road, Hampton, Virginia

Janitorial Service, FAA NAVAIDS Communication, Building 1300, Spokane International Airport, Spokane, Washington

SIC 7699

Pallet Repair, Naval Supply Center Cheatham Annex, Williamsburg, Virginia

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1982:

CLASS 8410

Havelock, 8410-00-782-2782, 8410-01-013-9109

C. W. Fletcher,

Executive Director.

[FR Doc. 82-28393 Filed 10-14-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 17, 1982.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 175 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 6645

Clock, Wall, 6645-00-530-3342 (GSA Region 5 only)

Class 7520

Perforator, Paper, Desk; 7520-00-139-3942, 7520-00-163-2563

Class 8415

Apron, Food Handling, 8415-00-899-3026
Apron, Laboratory, 8415-00-634-5923

Class 9920

Cleaner, Tobacco Pipe, 9920-00-292-9946

SIC 0782

Grounds Maintenance, USAR Facility—Portland (South), Sears Hall, 2731 SW Multnomah Boulevard, Portland, Oregon
USAR Facility—Portland (West), Sharff Hall, 8801 N. Chautauqua Boulevard, Portland, Oregon

SIC 7349

Janitorial/Minor Mechanical Services, Federal Building, 3rd Avenue and 1st Avenue, Cullman, Alabama
Janitorial/Related Services, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana
Janitorial Services, U.S. Courthouse, Broadway and Main Streets, Portland, Oregon
Janitorial/Custodial Services, U.S. Courthouse, 511 E. San Antonio Street, U.S. Border Station, Paso Del Norte, El Paso, Texas

SIC 7349

Janitorial Service, Federal Building and U.S. Courthouse, Milwaukee, Wisconsin

C. W. Fletcher,

Executive Director.

[FR Doc. 82-28394 Filed 10-14-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 12, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on EF-111A Capability Upgrade will meet at the Pentagon, Washington, DC on November 5, 1982. The purpose of the meeting will be to review status of ASD studies on EF-111A Capability Upgrade.

The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-28386 Filed 10-14-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

• Personal Information Questionnaire

Provides the Marine Corps relevant information regarding an applicant's background in terms of education, intelligence, experience and personal characteristics and is used as a method of determining the overall eligibility of applicants for all Reserve officer candidate programs.

Individuals or households and businesses or other institutions: 25,000 responses, 6,250 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD (C), IRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Mr. W. L. Conefrey, Headquarters, U.S. Marine Corps Personnel Procurement Division, Officer Procurement Section, Washington, D.C. 20380.

October 12, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-28377 Filed 10-14-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER82-855-000]

American Electric Power Service Corp.; Filing

October 8, 1982.

Take notice that American Electric Power Service Corporation (AEP) on September 30, 1982, tendered for filing on behalf of its affiliates Ohio Power Company (OPCO) and Indiana & Michigan Electric Company (I&ME) (sometimes collectively called "American Central Parties") Modification No. 10 dated January 1, 1982 to the Interconnection Agreement dated December 12, 1949 among the Cincinnati Gas & Electric Company (Cincinnati), I&ME, and OPCO, OPCO's Rate Schedule FERC No. 16, I&ME's Rate Schedule FERC No. 21, and Cincinnati's Rate Schedule FERC No. 13.

AEP states that Section 1 of this Agreement modernizes the Billing and Payment Article of the Interconnection Agreement. Sections 2 and 4 of this Agreement provide for an increase in the demand rate for Short Term Power and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively when American Central Parties are the supplying party and to $1.05 per kilowatt per week and $5.50 per kilowatt per month respectively when Cincinnati is the supply party. The Short Term Power Service Schedule has also been revised to include provisions to allow for the sale of Short Term Power on a daily basis. Section 3 of this Agreement updates the Interchange Power Service Schedule. The changes made by OPCO and I&ME in all of the service schedules in this Agreement are to comply with the Commission's Order 84 and to modernize the language of these Service Schedules with Service Schedules previously filed by AEP and accepted for filing by the Commission. Cincinnati's Short Term Power and Limited Term Power demand rates in this Modification are similar to demand rates previously filed by Cincinnati and accepted for filing by the Commission. This Agreement is proposed to become effective October 1, 1982.

AEP requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Cincinnati Gas & Electric Company, the Public Utilities Commission of Ohio, the Michigan Public Service Commission, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28453 Filed 10-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-857-000]

American Electric Power Service Corp.; Filing

October 8, 1982.

Take notice that on September 30, 1982, American Electric Power Service (AEP) tendered for filing on behalf of its affiliate Columbus & Southern Ohio Electric Company (C&SOE) Modification No. 4 dated January 1, 1982 to the Interconnection Agreement dated April 1, 1977 between the Cincinnati Gas & Electric Company (CG&E and C&SOE, C&SOE's Rate Schedule FERC No. 26, and CG&E's Rate Schedule FERC No. 38).

Section 1 of this Agreement adds a Fuel Conservation Energy Service Schedule and a Limited Term Power Service Schedule to the Interconnection Agreement, and Section 2 modernizes the Billing and Payment Article of the Interconnection Agreement. Sections 3 and 4 of this Agreement update the Emergency Service and Interchange Power Service Schedules. Section 5 provides for an increase in the demand rate for Short Term Power to $1.25 per kilowatt per week when C&SOE is the supplying party, and to $1.05 per

kilowatt per week when CG&E is the supplying party. The Short Term Power Service Schedule has also been revised to include provisions for the sale of Short Term Power on a daily basis. The changes made in all of the service schedules in this Agreement are to comply with the Commission's Order 84 and to modernize the language of these Service Schedules with Service Schedules previously filed by AEP and accepted for filing by the Commission. Cincinnati's Short Term Power, Limited Term Power, and Fuel Conservation Energy rates are similar to rates Cincinnati has on file and have been accepted for filing by the Commission. This Agreement is proposed to become effective October 1, 1982.

AEP requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Cincinnati Gas & Electric Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28454 Filed 10-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-845-000]

Connecticut Light and Power Co.; Filing

October 8, 1982.

Take notice that on September 27, 1982, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Exchange Agreement) between CL&P, the Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company (WMECO), and together with HELCO and CL&P, the NU Companies) and Boston Edison Company (Boston). The Exchange Agreement, dated as of December 7, 1981, provides for an exchange of excess capacity and associated energy from the NU Companies' system (system power) for an equal amount of capacity from certain generating units on Boston's system (the Exchange Units). CL&P states that the timing of the exchanges cannot be accurately estimated but that the NU Companies and Boston would enter into an exchange only when it was economic for both to do so.

CL&P states that Boston will pay an hourly capacity charge to the NU Companies for each hour of each exchange in an amount equal to the capacity exchange amount (expressed in kilowatts) for such exchange, times an amount not to exceed $0.007 per kilowatt. Boston will pay a fuel charge to the NU Companies for each exchange in an amount equal to the kilowatthours provided by the NU Companies during such exchange times a fuel charge rate. The fuel charge rate is based on the heat rate and the New England Power Exchange's replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide system power at the time of an exchange. The NU Companies will pay Boston a fuel charge for each exchange in an amount equal to the kilowatthours provided by Boston during such exchange, times a fuel charge rate. The fuel charge rate associated with Boston's jet turbine generating units is based on the heat rate and the New England Power Pool Exchange's replacement fuel price for each such unit. The fuel charge rate associated with Boston's intermediate fossil generating units is based on the average monthly fuel cost of each such unit. The NU Companies will pay a variable maintenance charge to Boston for any portion of any exchange made from any gas turbine type generating units equal to the product of the applicable variable maintenance rate (expressed in $/hour of operation) and the NU Companies will also pay an additional labor charge associated with certain of Boston's jet turbine generating units equal to the product of the applicable additional labor charge rate (expressed in $/hour of operation) and the NU Companies' fractional entitlement in each such unit.

CL&P requests an effective date of December 7, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon HELCO, WMECO and Boston.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28455 Filed 10-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-844-000]

Connecticut Light and Power Co.; Filing

October 8, 1982.

Take notice that on September 27, 1982, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated April 1, 1982 between CL&P, the Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) City of Holyoke, Massachusetts Gas and Electric Department (HG&E).

CL&P states that the Transmission Agreement provides for transmission services to HG&E for the wheeling of 9,530 kilowatts of MMWEC's entitlement obtained from Ontario Hydro during the period from April 1, 1982 to April 23, 1982.

CL&P further states that the transmission charge rate is a weekly rate equal to one-fifty second of the estimated annual average cost of transmission service on the Northeast Utilities system determined in accordance with Schedule A and Exhibits I, II and III thereto of the Transmission Agreement. The weekly transmission charge is determined by the product of (i) the transmission charge rate ($/kW-week), and (ii) the number of kilowatts HG&E is entitled to receive during such week. The weekly transmission charge is reduced by up to 50% to give due recognition for payments made by HG&E to other systems also providing transmission service.

CL&P requests an effective date of April 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to HELCO, WMECO, and HG&E.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 21, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28456 Filed 10-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-531-000]

Consolidated Gas Supply Corp.; Application

October 8, 1982.

Take notice that on September 16, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82-531-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to Elizabethtown Gas Company (Elizabethtown) and the implementation of a related storage service for Elizabethtown, all as more fully set foth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas sales agreement dated August 27, 1982, Applicant proposes to sell 2,000,000 dt equivalent of natural gas to Elizabethtown for injection into storage on October 31 of each year during the term of the agreement. Applicant would charge Elizabethtown the rate specified in Applicant's Rate Schedule E contained in its FERC Gas Tariff, Volume No. 1. Applicant states that rate is currently 433.67 cents per dt. Delivery of the gas would be accomplished by transferring title to such gas while it is in place within Applicant's storage facilities.

Applicant also proposes to sell Elizabethtown additional natural gas, in varying daily quantities during the winter withdrawal season, up to a total of 750,000 dt equivalent per withdrawal season. Applicant proposes to charge Elizabethtown for the additional gas under the rate specified in Applicant's Rate Schedule GSS, of its FERC Gas Tariff, Volume No. 1, and applicable to "Excess Deliveries—Not From Buyers Balance". The additional gas would be delivered for Elizabethtown's account to Transcontinental Gas Pipe Line Corporation (Transco), an existing pipeline supplier of Elizabethtown, at a mutually agreeable point of interconnection between Applicant's and Transco's facilities. In order to provide additional operating flexibility in the event that Elizabethtown desires to husband such gas in storage, Applicant indicates that deliveries could be effected by transferring title to such gas while it is in place within Applicant's storage facilities. Applicant submits that it would sell the additional gas only to the extent that it is able to make such gas available without jeopardizing its ability to meet its regular firm market requirements.

Pursuant to a gas storage agreement between Applicant and Elizabethtown also dated August 27, 1982, Applicant proposes to receive and store up to 2,000,000 dt equivalent of natural gas for Elizabethtown. Applicant would withdraw from storage and deliver for Elizabethtown's account, a storage demand quantity of up to 25,000 dt equivalent of natural gas per day. Applicant states that it would not be required to withdraw from storage and deliver more than 750,000 dt equivalent of natural gas during the consective winter months of November through March. Applicant also indicates that it would withdraw and deliver, and Elizabethtown would be required to receive, not less than 1,250,000 dt equivalent of natural gas during the summer months of April through October. For such service, Applicant proposes to charge Elizabethtown the rate set forth in Rate Schedule GSS, of Applicant's FERC Gas Tariff, Volume No. 1.

Applicant submits that no new facilities would need to be constructed to implement the proposed services. Applicant further submits that the gas supplies proposed herein to be sold would assist Elizabethtown in meeting the daily requirements of its present customers and that the quantities are estimated to be surplus to the needs of Applicant's present customers. In addition, Applicant submits that the proposed sale of gas would help Applicant maintain an appropriate level of short-term demand sufficient to promote natural gas exploration development activities required to develop adequate long-term supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 20, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-28457 Filed 10-14-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. CP82-542-000]

Michigan Wisconsin Pipe Line Co.; Application

October 8, 1982.

Take notice that on September 21, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-542-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of gas pursuant to a new Rate Schedule DF-1 of Applicant's FERC Gas Tariff, Original Volume No. 1, and to be effective November 1, 1982, through October 31, 1984, all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Applicant states that the new rate schedule would be available to existing utility customers which purchase gas under its Rate Schedules CD-1, LVS-1 or SGS-1, for resale to specified industrial customers if that customer (1) is located within the utility's existing service area; (2) has a minimum annual gas requirement of 100,000 dt equivalent of gas; (3) utilizes natural gas for feedstock or process purposes or has existing capability to use No. 5 or No. 6. fuel oil or liquefied petroleum gas; and (4) is able to demonstrate that it would be unable to purchase, or continue to purchase, or must substantially reduce its purchases of natural gas from the utility unless the natural gas is purchased by the utility under the proposed Rate Schedule DF-1. It is indicated that sales would be made within the limits of the annual and daily contract quantities already approved by the Commission pursuant to Rate Schedules CD-1, LVS-1, and SGS-1 of Applicant's FERC Gas tariff. The new rate schedule would be effective from November 1, 1982 through October 31, 1984.

Applicant asserts that it would offer gas for sale pursuant to Rate Schedule DF-1 at rates higher than its average cost of gas. It is indicated that for gas users not subject to the Natural Gas Policy Act of 1978 (NGPA) incremental pricing provisions, the price under the proposed Rate Schedule DF-1 would be no lower than the then effective NGPA Section 102 price and no higher than Applicant's then effective Rate Schedule LVS-1 price. It is further indicated that the actual price within those limits, but no less than Applicant's average cost of gas, would be the level that the gas user can demonstrate would be required for it to purchase the gas or to avoid reductions in the purchase of gas and that for gas users subject to the NGPA incremental pricing provisions, the price would be 90 percent of the applicable incremental ceiling price.

Applicant proposes to credit to its Account No. 191 of the Commission's *Uniform System of Accounts Prescribed for Natural Gas Companies* all revenues received from gas sold under this rate schedule in excess of related purchased gas costs. Service under this rate schedule would be subject to interruption prior to service under Applicant's other existing rate schedules, it is asserted.

Applicant proposes the use of the proposed Rate Schedule DF-1 by November 1, 1982, the date that a general rate increase, in Docket No. RP82-80, and a semi-annual purchase gas adjustment increase, must go into effect. It is claimed that at that time gas users elect between gas and alternative fuels. Applicant states that it may lose substantial load if lower prices, in the form of Rate Schedule DF-1, cannot be offered by November 1, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 18, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28458 Filed 10-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP76-492-028, *et al.*]

Penn-York Energy Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

October 8, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 22, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
9/16/82	Penn-York Energy Corp.	CP76-492-028.	Report.
9/24/82	Mississippi River Transmission Corp.	RP81-129-007.	LFUT Report.
9/24/82	National Fuel Gas Supply Corp.	RP80-135-023.	Report.
9/29/82	Midwestern Gas Transmission Co.	CP66-110-029.	Do.
9/29/82	Southern Natural Gas Co.	CP78-266-002.	Do.
9/30/82	Consolidated Gas Supply Corp.	RP80-61-014	SRO Report.
9/30/82	Natural Gas Pipe Line Co. of America.	RP71-125-012.	Report.

[FR Doc. 82-28459 Filed 10-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-852-000]

Southwestern Public Service Co.; Filing

October 8, 1982.

Take notice that Southwestern Public Service Company (Southwestern), on September 30, 1982, tendered for filing proposed changes in its FERC Electric Service Tariffs to all partial requirements customers as follows:

Name of Customer and *Rate Schedule FPC No.*

City of Brownfield, Texas
81, Supplement No. 2 to Supplement No. 1 [1]
(NML) New Mexico Electric Service Company
82, Supplement No. 6 [1]
(NML) Lea County Electric Cooperative, Inc.
82, Supplement No. 6 [1]
City of Floydada, Texas
83, Supplement No. 1 [1]
Lubbock Power and Light Company
85, Supplement No. 1
City of Tulia, Texas
Rate Schedule No. not assigned as this date [2]

[1] As proposed to be amended in Docket No. ER80-573, subject to refund.

[2] Initial service scheduled for January, 1983.

Southwestern proposes a two step increase, which recognizes certain unresolved issues arising in Docket No. ER80-573. The proposed changes would result in an increase of $643,682 under the Phase I rate and an additional $2,869,811 under the Phase II rate for Period II year ended August 31, 1983, resulting in a 3.1 percent increase and a 16.9 percent increase, respectively, above the existing rate.

The proposed effective date for the Phase I rate is 60 days after filing date. The Phase II rate is requested to be made effective 61 days from the filing date. Southwestern requests that the Phase I rate be allowed, subject to refund, without suspension or that it be suspended for no longer than one day. Southwestern would not oppose a maximum five-month suspension of the Phase II rate. If the Commission orders a five-month suspension of the Phase I rate beyond its proposed effective date, Southwestern requests that the Phase I rate be deemed withdrawn and the Phase II rate only be considered in this filing.

Southwestern states that the reasons for the proposed increase are that Southwestern has incurred increased capital costs resulting from building coal fired plants to provide its customers lower electricity costs and that it has experienced increases in labor, material and operating costs since the effective date of the existing rates. The increased costs have resulted in a rate of return of 7.62 percent on the investment required to serve the partial requirements customers as compared to a 13.065 percent cost of capital.

Copies of the filing were served on the affected customers, the Public Utility Commission of Texas and the Public Service Commission of New Mexico.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All Such motions or protests should be filed on or before October 26, 1982. Protests will be considered by the Commission in determining the appropriated action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-28460 Filed 10-14-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of August 2 through August 6, 1982

During the week of August 2 through August 6, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Duncan, Allen and Mitchell, 8/6/82, HFA-0073

Duncan, Allen and Mitchell, filed an Appeal from a denial by the DOE Executive Secretary of a Request for Information which the firm had submitted under the Freedom of Information Act. The denial was based on the fact that the Executive Secretary found no documents reponsive to the Duncan request. In its appeal, the firm contended that the Executive Secretary failed to conduct an adequate search for reponsive documents. In considering the Duncan Appeal, the DOE found that the Executive Secretary conducted a thorough and conscientious search for documents, and found no documents responsive to the request. The Duncan, Allen and Mitchell Appeal was accordingly denied.

Enver Masud, 8/4/82, HFA-0068

Enver Masud filed an Appeal from a denial by the Director of the Office of Personnel of a Request for Information which the firm submitted under the Freedom of Information Act. The denial was based on the determination that no documents existed which were responsive to the Masud request. Masud appealed the determination on the grounds that he believed certain responsive documents existed which were not identified by the Director. The DOE therefore requested that the Director search specifically for the documents referred to by Masud. The Director again failed to locate any documents responsive to the Masud request. The DOE found that the Office of Personnel conducted a thorough and conscientious search for responsive documents. Accordingly, the DOE denied Masud's Appeal.

Enver Masud, 8/4/82, HFA-0069

Enver Masud filed an Appeal from a partial denial by the Director of the Office of Personnel of a Request for Information which Masud had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain information inadvertently deleted from documents previously released to Masud should be released to him, and that certain other information, of which the release had been delayed, should also be released. With respect to Masud's claim that the Office of Personnel failed to perform an adequate search for responsive material, the DOE found that the Office conducted a thorough and conscientious search for responsive documents. Accordingly, Masud's Appeal was denied in part and granted in part.

Union Oil Company of California, BEA-0639; Diamond Shamrock Corporation, BEA-0641; Kerr-McGee Corporation, BEE-0642; Texaco, Inc, Exxon Company, USA, 8/6/82, BEA-0644

Union Oil Company of California, Diamond Shamrock Corporation, Kerr-McGee Corporation, Texaco, Inc., and Exxon Company, USA, filed appeals of the December 1980 Entitlements Notice, 46 FR 14151 (1981), which was issued on February 26, 1981 under the provisions of the DOE Crude Oil Entitlements Program, 10 CFR § 211.67. In considering the Appeals, the DOE determined that the petitioners had failed to establish their claims that the December notice was procedurally defective and that its issuance was arbitrary and capricious. Accordingly, the Appeals were denied.

Request For Exception

Charter Oil Company, 8/4/82, HEE-0007

Charter Oil Company filed an Application for Exception from the provisions of 10 CFR § 211.69, which prohibited it from filing amended entitlements reports (Form ERA-49) for April and May of 1980. In considering the Charter request, the DOE determined that Charter had failed to demonstrate that it had filed incorrect entitlements reports or that it would experience any injury if exception relief were not granted. The DOE also stated that any difficulty Charter would experience if it did file incorrect reports would be caused by the firm's failure to review its records in a diligent manner, rather than by DOE regulations. Accordingly, Charter's Application for Exception was denied.

Petition For Special Redress

Leonard E. Belcher, Inc., 8/2/82, HEG-0013

Leonard E. Belcher, Inc., filed a Petition for Special Redress or Other Relief with the Office of Hearings and Appeals of the Department of Energy. In the Petition, Belcher requested that the OHA rescind a requirement that Belcher maintain a letter of credit to secure payment of its liability under a remedial order. That requirement had originally been imposed upon Belcher by the OHA as a condition of a Stay of the remedial order's refund requirements which the OHA had previously granted to Belcher. Subsequent to the imposition of the letter of credit requirement, the remedial order was issued as a final order of the DOE, and Belcher sought judicial review of the remedial order in Federal District Court. In considering Belcher's Petition, the DOE noted that only seven days after the decision staying Belcher's refund obligation and imposing the letter of credit requirement, the OHA had decided that firms should generally not be required to maintain a letter of credit as a

condition of such a stay. The DOE stated that had Belcher's Application for Stay been decided only a week later, Belcher would not have been required to maintain a letter of credit as a condition of the stay. The DOE further stated that unless a compelling reason exists, Belcher should not be required to continue to bear a burden not shared by other similarly situated firms, merely because Belcher's Petition was decided on a particular date instead of a week later. The DOE concluded that there was no reason to believe that Belcher could not be relied upon to comply with its refund obligations in the event such compliance becomes necessary. Accordingly, the DOE removed the previously imposed requirement that Belcher maintain its letter of credit.

Supplemental Orders

Armstrong Petroleum Corporation, 8/4/82, BRX-0129

Pursuant to a remand from the Federal Energy Regulatory Commission, the Office of Hearings and Appeals granted Armstrong Petroleum Corporation an oral argument and reconsidered several aspects of a Proposed Remedial Order (PRO) issued to Armstrong by the Western Enforcement District. The Office of Hearings and Appeals determined that Armstrong's previous Motion for Discovery and Motion for Evidentiary Hearing had been properly denied. The Office of Hearings and Appeals also denied a new discovery request which the firm made at the hearing for oral argument. With respect to the merits of the PRO, the Office of Hearings and Appeals determined that the PRO, as amended in several respects, should be issued as a final Remedial Order of the DOE. In so holding, the Office of Hearings and Appeals found that Armstrong had improperly treated as separate properties a number of reservoirs underlying a producing lease, and therefore had miscertified certain crude oil production as stripper well production. The Office of Hearings and Appeals also determined that it is within the agency's authority to hold Armstrong, as the operator of the lease and the central figure in pricing determinations, liable for all overcharges resulting from production from the lease. Finally, the Office of Hearings and Appeals modified the remedial provisions of the PRO in several respects. Specifically, the DOE provided that as of February 23, 1981, interest on overchages should be computed at the prime rate. The PRO was also modified to permit the DOE to determine at a later date the appropriate method of refunding the overcharges.

McCulloch Gas Processing Corp., 8/2/82, HCX-0036

The United States District Court for the District of Wyoming remanded for reconsideration by the DOE a decision issued to McCulloch Gas Processing Corp., (MGPC) on November 22, 1978. That decision denied MGPC's request for exception relief that would have permitted the firm to increase its lawful selling prices for NGLs produced at its Belle Fourche plant both prospectively and retroactively. MGPC argued in its original exception request that without exception relief, the firm would have operated at a loss for the entire period from 1973 through 1977, and would have had no incentive to operate the plant prospectively.

Upon remand, DOE again denied MGPC's exception request. The DOE determined that retroactive exception relief was not warranted because of the high overall profitability of the firm, and because MGPC's financial losses at the plant itself were primarily the result of the plant's low volume of production, rather than a result of DOE regulations. In considering MGPC's request for prospective exception relief, the DOE reviewed the plant's profitability and found that the firm did have a financial incentive to continue the plant's operations. Accordingly, exception relief was denied.

Atlantic Richfield Co., HRX-0038; Gulf Oil Corp., HRX-0039; Marathon Oil Co., HRX-0040; Standard Oil Co. (Ohio), HRX-0041; Texaco Inc., HRX-0042; Louisiana Land & Exploration Co., 8/4/82, HRX-0043

On March 15, 1982, the Atlantic Richfield Company, the Gulf Oil Corporation, the Marathon Oil Company, the Standard Oil Company (OHIO), Texaco Inc. and the Louisiana Land and Exploration Company (the producers) filed a motion to compel additional discovery with the Office of Hearings and Appeals. In that motion, the producers requested the OHA to order the Office of Special Counsel for Compliance (OSC) to produce certain documents which the OSC had identified in response to the OHA's discovery order in *Atlantic Richfield Co.*, 5 DOE ¶82,521 (1980), and for which the OSC has asserted claims of privilege. On July 12, 1982, the DOE issued a decision upholding most of the privilege claims at issue and ordered the OSC to submit certain documents to the OHA for *in camera* review. The OSC subsequently submitted the required documents to the OHA. After completing its *in camera* review, the OHA upheld the OSC's privilege claims for certain of the material at issue. In several instances, however, the OHA rejected the OSC's privilege claims and ordered the material in question released to the producers.

Refund Applications

Pennzoil Company/Refrigerated Express, Inc. et al., 8/3/82, FR10-1 et al.

The Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3,000,000 fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil)*, 9 DOE ¶82,545 (1982). In *Pennzoil*, the DOE stated that it would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 6, 1973 through December 31, 1980. The present Decision considers 24 applications for refund filed by applicants claiming purchases from Pennzoil no greater than an average of 50,000 gallons per month. In considering refunds to 21 of the applicants, the DOE determined that those applicants were adversely affected by Pennzoil's alleged violations and were eligible for a portion of the consent order funds. Accordingly, those applications were granted. The remaining three applications were for refunds of less than $15. In considering those refund requests, the DOE determined that the cost of processing those claims outweighed the modest benefits of restitution to those applicants. Accordingly, the DOE concluded that these applications should be denied.

Tenneco Oil Co./Kern Oil & Refining Co., 8/3/82, RF7-59

Kern Oil & Refining Company filed an Application for Refund in which it sought a portion of the funds obtained by the DOE pursuant to a consent order with Tenneco Oil Company. Kern claimed that it had satisfied the criteria governing applications for refund based on injury due to alleged violations of DOE allocation regulations, as set forth in *Office of Special Counsel: In the Matter of Tenneco Oil Co.* 9 DOE ¶82,538 (1982). The DOE found Kern's claim without merit because the firm had previously admitted that Tenneco had in fact supplied Kern with the crude oil which the firm claimed had been unlawfully diverted from it. The DOE also found that Kern had failed to show that it absorbed alleged overcharges resulting from Tenneco's improper recertification of certain crude oil. The DOE accordingly denied Kern's Application for Refund.

Tenneco Oil Company/Imperial Oil Company, RF7-9; Tenneco Oil Company/Eastern of New Jersery, RF7-89; Tenneco Oil Company/Superior Oil Service, 8/3/82, RF7-94

Imperial Oil Company, Eastern of New Jersey, and Superior Oil Company filed Applications for Refund pursuant to the special refund procedures established in *Office of Special Counsel: In the Matter of Tenneco Oil Co.*, 9 DOE ¶ 82,538 (1982). In considering these applications, the DOE examined each applicant's pattern of purchasing Tenneco products, and found that each of the three applicants were spot purchasers of Tenneco products, who were presumed not to have been injured by Tenneco's pricing practices. Since none of the firms had submitted any information which rebutted the presumption of no injury, the three applications were denied.

Dismissals

The following submissions were dismissed without prejudice

Buckeye Gas Products Company, RF14-1; George W. Wolf, Inc., RF10-32

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy*

Guidelines, a commercially published loose leaf reporter system.

October 7, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82-28334 Filed 10-14-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 16 Through August 20, 1982

During the week of August 16 through August 20, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception of other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Brown & Roady, 8/16/82, HFA-0072

Brown & Roady filed an Appeal from a determination that had been issued to the firm pursuant to the Freedom of Information Act (the FOIA) by the Assistant Secretary for Fossil Energy. In that determination, the Assistant Secretary deleted nonresponsive material from certain responsive documents released to the firm. In considering the Appeal, the DOE rejected the firm's argument that the Assistant Secretary's determination was inadequate because it did not explain why the deleted material was nonresponsive. The DOE found that there is no requirement in the regulations that an Authorizing Official provide an explanation of why material is deemed nonresponsive. The DOE further found that there was a more appropriate remedy available to the firm. Since the firm knows the identity of the documents containing the material it seeks the firm may file a new FOIA request for the full documents. Accordingly, the Appeal was dismissed.

Remedial Orders

Hawthorne Oil and Gas Corporation, 8/17/82, DRO-0208

Hawthorne Oil and Gas Corporation objected to a Proposed Remedial Order issued to the firm on May 30, 1978. In the PRO, the Economic Regulatory Administration concluded that Hawthorne had charged prices for crude oil condensate produced from the Alliance Sand Reservoir A Unit in Louisiana that were in excess of the ceiling prices permitted by DOE regulations. After considering Hawthorne's objections, the OHA affirmed the findings of the PRO. The important issues considered in the Decision and Order include: (i) the validity of Ruling 1975-15; (ii) whether an increase in the production allowable for natural gas constitutes a "significant alteration in producing patterns"; (iii) whether two tracts within one unitized property may be considered non-contiguous for the purposes of the non-contiguous tract exception referred to in Ruling 1977-1.

The OHA also modified the remedial provisions of the PRO in order to allow the ERA greater flexiblility in selecting appropriate remedial actions. Finally, the OHA determined that an ERA motion for modification of interest rates should be granted prospectively from the date it was filed, but denied as it applied to periods prior to the time it was filed.

Pacific Valley Center, 8/17/82, BRO-1449

Pacific Valley Center objected to a Proposed Remedial Order issued to the firm by the Office of Enforcement of the Economic Regulatory Administration on May 29, 1981. In the Proposed Remedial Order, ERA found that Pacific had made sales of motor gasoline to retail customers at prices which exceeded its maximum lawful ceiling price, thereby violating 10 CFR 212.93. The DOE rejected the firm's argument that it was relying on the advice of agency personnel in setting its prices. The DOE also found no merit in the claim that the firm's due process rights were violated because it was not specifically noticed of the price rules. As a result, the Proposed remedial Order was issued as a final Order.

Requests for Exception

Southwest Petrorefining Company, 8/18/82, BEE-1513

Southwest Petrorefining Company (SWP) filed an Application for Exception from the provisions of 10 C.F.R. § 212.94, as modified by Special Rule No. 2, in which the firm sought an exception which would designate a refiner-seller to sell SWP crude oil allocated to it under the Buy-Sell Program at the weighted average cost of all crude oil, rather than at the cost of all imported low sulfur crude oil. In considering the request, the DOE found that the firm's inability to profitably refine the crude oil offered to it under the Program was the result of its discretaionay business decisions and not the application of the Buy/Sell price rule. The firm's refinery configuration limited it to processing only expensive low sulfur crude oil and its product slate consisted of products of relatively low market values. Accordingly, exception relief was denied. The important issue discussed in the Decision and Order was the objective of the Buy-Sell Program to assure small refiners access to crude oil supplies, rather than to assure that that crude oil be priced to their advantage.

State of Delaware, 8/16/82m HEE-0027

The State of Delaware filed an Application for Exception from the provisions of 10 C.F.R. Part 455 in which it sought an increase in the amount of federal funds it receives for administering Cycle IV of the DOE Institutional Building Grant Program. In considering the Delaware exception request, the DOE noted that it is important that the greatest possible amount of funds appropriated by Congress for conservation grants be used for actual conservation measures. However, the DOE also noted that it is important that state energy offices be funded at a level adequate to administer the program and monitor the performances of grant recipients. The DOE concluded that in light of the substantial cutback in the funds available to Delaware for administration of the Institutional Building Grant Program, the State would be unable to administer the Program adequately in the absence of exception relief. Since the cutbacks adversely affected Delaware in a disproportionate manner the Delaware exception request was granted.

Interlocutory Order

Ashland Oil, Inc., 8/18/82, HEZ-0086

In a Decision and Order issued on July 19, 1982, the DOE ordered Ashland Oil, Inc. (Ashland) to pay monetary restitution in the amount of $5,748,131.95 by July 29, 1982 to seven major refiners assigned by the DOE to supply Ashland with crude oil during February 1980. Subsequently, the DOE extended the time for payment of the restitution by twenty days on the condition that Ashland pay interest on the amounts owed from July 30, 1982 through the date the payments are made. The Decision and Order directed Ashland to place the amounts of restitution determined in the July 19 Order plus the interest accrued during the twenty-day extension period, into an escrow account until such time as the DOE resolves the questions raised by Ashland and other firms concerning the amount of restitution to which each supplier is entitled.

Refund Applications

Tenneco Oil Company/Bryant G. Nix, 8/18/82, RF7-99

Bryant G. Nix filed an Application for Refund in the Tenneco Oil Company Special Refund Proceeding pursuant to 10 C.F.R., Part 205, Subpart V. The firm requested a refund based on its purchases of motor gasoline, kerosene, and No. 2 fuel oil during the consent order period. Since its purchases amount to less than 600,000 gallons of covered product annually, the Office of Hearings and Appeals determined that the firm should be granted a refund for the full extent of its purchases from Tenneco based on a pro rata share of the consent order fund and accrued interest.

Tenneco Oil Company/Hudson Oil Company, 8/17/82, RF7-64

Hudson Oil Company filed an Application for Refund in the Tenneco Oil Company Special Refund Proceeding pursuant to 10 CFR Part 205, Subpart V. Hudson requested a refund on the basis of its entire purchases of motor gasoline from Tenneco during the period March 1973 through December 1980. Hudson purchased in excess of 600,000 gallons in each year of the consent order period. In reviewing the refund application, the OHA found that the firm failed to provide a summary of banks of unrecouped product cost increases during a portion of the relevant time period. The OHA determined that a demonstration of the existence of a bank of unrecouped product cost increases for the entire consent order period is a necessary prerequisite to establishing eligibility for a refund based on purchases in excess of 600,000 gallons per year per covered product, since the nonexistence of such a bank may indicate that a firm was able to pass through all increased product costs to its customers.

Hudson's refund, therefore, was limited to its pro rata share of the consent order fund based on its purchases of 600,000 gallons of motor gasoline per year.

Tenneco Oil Company/Major Oil Company of Georgia, 8/18/1982, RF7-100

The Major Oil Company of Georgia (Major) filed an application for Refund pursuant to a Decision and Order issued on February 18, 1982 in *Office of Special Counsel*, 9 DOE ¶ 82,538 (1982). In its Application, Major sought a portion of a fund obtained by the DOE through a consent order entered into by the agency and the Tenneco Oil Company on January 18, 1981. After considering additional data contained in Major's Application, the DOE found that the firm was entitled to a refund of $1,203 more than the refund which it previously received in *Sav-A-Ton Self Service et al.*, 9 DOE ¶ , Nos. RF7-13 *et al.* (July 23, 1982), plus an additional .024659 percent of the interest accrued on the Tenneco consent order funds. Major's Application for Refund was therefore granted in part.

Tenneco Oil Company/United Fuels Corporation, 8/17/82, RF7-69

United Fuels Corporation filed an Application for Refund in the Tenneco Oil Company Special Refund Proceeding. United requested a refund on the basis of its entire purchase of motor gasoline, kerosene, and No. 2 fuel oil during the consent order period, March 1973 through December 1980. The firm purchased in excess of 600,000 gallons of covered product from Tenneco in each year of the consent order period. In reviewing the refund application, the OHA found that the firm failed to provide a summary of banks of unrecouped product cost increases during a portion of the consent order period. The OHA determined that a demonstration of the existence of a bank of unrecouped product cost increases is a necessary prerequisite to establishing eligibility for a refund based on purchases in excess of 600,000 gallons per year per covered product, since the nonexistence of such a bank may indicate that a firm was able to pass through all increased product costs to its customers. United Fuel's refund, therefore, was limited to its pro rata share of the consent order fund based on its purchases of 600,000 gallons of covered product per year.

Vickers Energy Corporation/Unruh's, Inc., RF1-244, Vickers Energy Corporation/Fissel Oil Company, Inc., RF1-79, Vickers Energy Corporation/Criswell Oil Company, RF1-176, Vickers Energy Corporation/Gas-Mart Company, RF1-257, Vickers Energy Corporation/Bunyard's Service Center, Inc., 8/17/82, RF1-270

Each of the applicants indicated above filed an Application for Refund pursuant to 10 C.F.R., Part 205, Subpart V, in which the firm claimed a portion of an escrow fund established by Vickers Energy Corporation in settlement of DOE claims that Vickers overcharged in sales of motor gasoline to other than company-operated outlets. *See Office of Enforcement*, 8 DOE ¶ 82,597 (1981). In considering those applications, which claimed refund based on purchases exceeding an average of 50,000 gallons of Vickers motor gasoline per month, the DOE required each applicant to establish that it did not pass through alleged overcharges to the applicant's own customers. Since each of the applicants in question purchased substantially all of its motor gasoline from Vickers, an analysis of the applicant's product acquisition cost, product selling price, and profit margin during the relevant period was conducted to determine the degree of injury sustained by the applicant, and therefore the proper refund for each applicant. The DOE therefore granted each application to the extent indicated by that analysis.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy.

Company name	Case No.
Cities Service Company/Little America Refining Company.	HEJ-0022.

Dismissals

The following submission was dismissed without prejudice:

Company name	Case No.
Cascade Chevron	HRO-0055.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1121, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Hearings and Appeals.

October 7, 1982.

[FR Doc. 82-28335 Filed 10-14-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of August 23 Through August 27, 1982

During the week of August 23 through August 27, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR § 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 7, 1982.

Collier Diamond "C" Oils, Inc., Dallas, Texas, HRO-0086, Crude Oil

On August 24, 1982, Collier Diamond "C" Oils, Inc., 187 Meadows Building, Dallas, Texas 75206, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas, Texas District Office of Enforcement issued to the firm on July 30, 1982. In the PRO, the Dallas, Texas District found that during the period September 1, 1973 through December 31, 1980, Collier Diamond "C" Oils sold upper and lower tier crude oil as stripper well oil in violation of 6 CFR 150.54(a)(2) and 10 CFR 212.32(b). According to the PRO the Collier Diamond "C" Oils, Inc. violation resulted in $74,785.71 of overcharges.

West Coast Oil Company, Oildale, California, HRO-0087, refined petroleum products

On August 25, 1982, West Coast Oil Company, P.O. Box 5475, Oildale, California 93308, filed a Notice of Objection to a Proposed Remedial Order issued to the firm on July 30, 1982 by the DOE San Francisco District Office. In the PRO, the San Francisco District alleges that during the period October 1973 through January 1976, West Coast sold refined petroleum products at prices in excess of the maximum legal selling prices allowed by the DOE Mandatory Petroleum Price Regulations by: (i) Prorating proceeds from "sales" of crude oil import licenses; (ii) understating its crude oil costs for May 1973; and (iii) failing to prenotify the DOE of its intention to pass through increased non-product costs, all in violation of 10 CFR 212.82. According to the PRO, the West Coast Oil violation resulted in $2,300,131 of overcharges.

[FR Doc. 82-28336 Filed 10-14-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2228-8]

Availability of Environmental Impact Statements Filed October 4 through October 8, 1982 Pursuant to 40 CFR Part 1506.9

Responsible Agency: Office of Federal Activities, General Information, 382-5075 or 382-5076.

Corps of Engineers:
- EIS No. 820674, Draft, COE, AR, Bull Creek/Mid Arkansas Water Supply Reservoir, Permit, White County, Due: Nov. 29, 1982.
- EIS No. 820671, Draft, COE, KY, Campbell County Riverport and Industrial Park Construction, Permit, Due: Nov. 29, 1982.
- EIS No. 820668 Draft, COE, NM, Abiquiu Dam and Reservoir, Water Supply Storage, Rio Arriba County, Due: Nov. 29, 1982.

Department of Interior:
- EIS No. 820673, Draft, BLM, AK, PRO, Nat'l Petroleum Reserve Oil and Gas Leasing and Development Plan, Due: Dec. 10, 1982.
- EIS No. 820676, Draft, OSM, CO Meeker Area Mines, Mining/Reclamation Plan, Approval, Rio Blanco Co., Due: Dec. 1, 1982.

Department of Transportation:
- EIS No. 820670, Final FHW, NY NY-5S Relocation/Ilion and Mohawk Bypass, Herkimer County, Due: Nov. 15, 1982.

Environmental Protection Agency:
- EIS No. 820669, Draft, EPA, ME, ATL, Portland Ocean Dredged Material Disposal Site, Designation, Due: Nov. 29, 1982.
- EIS No. 820672, Draft, EPA, SEV, PAC or WA, Columbia River Dredged Material Disposal Site, Designation, Due: Nov. 29, 1982.
- EIS No. 820667, Final, EPA, DE, City of Lewes Wastewater Treatment Mgmt. Facilities, Grant Sussex Co., Due: Nov. 22, 1982.
- EIS No. 820675, F Suppl, EPA, NM, Albuquerque WWT Facilities, Sludge Mgmt. System, Grant, Bernalillo Co., Due: Nov. 15, 1982.

Dated: October 12, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-28433 Filed 10-14-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Telecommunications Industry Advisory Group Expense Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on Thursday, October 28, 1982. The meeting will be held at 9:30 a.m. in the Cypress Room of the Hyatt Burlingame Hotel located at 1333 Old Bayshore Highway, Burlingame, California and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Discussion of Expense Subcommittee Directions.
III. Discussion of Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393-4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-28385 Filed 10-14-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has 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 application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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 Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Citizens State Financial Corporation*, Corrigan, Texas; to acquire 100 percent of the voting shares or assets of RepublicBank Groveton, Groveton, Texas. Comments on this application must be received not later than November 2, 1982.

Board of Governors of the Federal Reserve System, October 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28333 Filed 10-14-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has 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 application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Dakota Bankshares, Inc.*, Fargo, North Dakota; to acquire at least 80 percent of the voting shares or assets of Dakota Bank of Wahpeton, Wahpeton, North Dakota. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than November 8, 1982.

Board of Governors of the Federal Reserve System, October 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28339 Filed 10-14-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of 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 New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and insurance activities; Maryland, Virginia, Pennsylvania, Delaware and the District of Columbia): To expand the activities of five existing offices of its subsidiary, Citicorp Financial, Inc., to include the proposed de novo activities of: the making, acquiring or servicing of consumer loans and other extensions of credit secured by first mortgage or first trust liens on real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of each office for the aforementioned activities shall be the entire States of Maryland, Virginia, Pennsylvania, Delaware and the District of Columbia. Credit related life, accident, and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate of Citicorp Financial, Inc. Comments on this application must be received not later than November 5, 1982.

2. *Manufacturers Hanover Corporation,* New York, New York (consumer finance, sale finance, and credit insurance activities; Maryland): To continue to engage, through its indirect subsidiary Finance One Mortgage of Maryland, Inc., in the activities of making or acquiring loans and other extensions of credit, secured or unsecured, such as could be made or acquired by a finance company under Maryland law; servicing such loans and other extensions of credit; and offering credit-related life insurance; such activities will include making consumer installment loans, purchasing installment sales finance contracts, real estate equity lending, motor vehicle lending, making loans and other extensions of credit secured by real and personal property, and offering credit-related single and joint life insurance and decreasing or level term (in the case of single payment loans) life insurance, directly related to extensions of credit made or acquired by Finance One Mortgage of Maryland, Inc., by licensed agents or brokers to the extent permissible under applicable state insurance laws and regulations. These activities are to be conducted at a de novo office located in Bethesda, Maryland, serving the entire State of Maryland. Comments on this application must be received not later than November 5, 1982.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Union Trust Bancorp,* Baltimore, Maryland (financing and insurance activity; Jacksonville, Florida): To engage, through its subsidiary, Landmark Finance Corporation of Florida, in making installment loans to individuals for personal, family or household purposes; in purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; in acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; in acting as agent in the sale of insurance protecting collateral held against the extensions of credit; and in making second mortgage loans secured in whole or in part by mortgages or other liens in real estate. These activities will be conducted from an office located in Jacksonville, Florida, serving the town of Jacksonville and the surrounding area. Comments on this application must be received not later than November 8, 1982.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia,* Augusta, Georgia (financing, insurance underwriting, insurance agent activities; North Carolina): To engage, through its subsidiary, CMC Group, Inc., Charlotte, North Carolina, in making consumer installment loans secured by note, household goods, and first or second mortgages on real estate up to $15,000; to purchase installment sale contracts up to $3,500; to underwrite credit life and accident and health insurance; and to sell as agent property insurance in connection with its loans and installment sale contracts. These activities would be conducted from offices to be located in Waynesville, North Carolina, serving Haywood County, North Carolina. Comments on this application must be received not later than November 3, 1982.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commerical Bancorporation of Colorado,* Denver, Colorado (leasing activities, United States): To engage, through the present company, Commercial Bancorporation of Colorado, in the making of leases on personal property in accordance with the Board's Regulation Y. The company intends to enter into leasing activities throughout the United States. These activities will be conducted from its office in Denver, Colorado. Comments on this application must be received not later than November 8, 1982.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Nasher Financial Corporation,* Dallas, Texas (commercial financing activities; Texas): To engage de novo through its subsidiary, NorthPark National Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts), such as would be made by a bank or bank related financial institution pursuant to Sections 225.4(b)(1) of Regulation Y and 4(c)(8) of the Bank Holding Company Act. Specifically, NorthPark National Corporation will

concentrate its lending activities toward commercial and industrial concerns in its service area, including manufacturing, retail, wholesale, energy, real estate and service type industries. These activities will be conducted from offices located in Dallas, Texas, serving the Dallas/Fort Worth Metroplex area, consisting of Dallas, Tarrant, Collin, Denton, Ellis, Rockwall and Kaufman Counties, Texas. Comments on this application must be received not later than November 8, 1982.

Board of Governors of the Federal Reserve System, October 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28338 Filed 10-14-82; 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 request 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. *Citizens First Bancshares, Inc.*, Ocala, Florida; to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens First Bank of Ocala, Ocala, Florida. Comments on this application must be received not later than November 8, 1982.

2. *Guaranty Bancshares Holding Corporation*, Morgan City, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Guaranty Bank & Trust Company of Morgan City, Morgan City, Louisiana. Comments on this application must be received not later than November 8, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Spring Green Bankshares, Inc.*, Spring Green, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Spring Green, Spring Green, Wisconsin. Comments on this application must be received not later than November 8, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Abanc Holding, Inc.*, El Dorado, Kansas; to become a bank holding company by acquiring 96.81 percent or more of the voting shares of Augusta Bank and Trust, Augusta, Kansas. Comments on this application must be received not later than November 8, 1982.

2. *Downing Investment Co., Inc.*, Ellis, Kansas; to become a bank holding company by acquiring 81.5 percent of the voting shares of Americus, State Bank, Americus Kansas; and to acquire 24.9 percent of the voting shares of Ellis State Bank, Ellis, Kansas. Comments on this application must be received not later than November 8, 1982.

3. *First Edmond Bancshares, Inc.*, Edmond, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Edmond, Edmond, Oklahoma. Comments on this application must be received not later than November 8, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Delta National Bancorp*, Manteca, California; to become a bank holding company by acquiring 100 percent of the voting shares of Delta National Bank, Manteca, California. Comments on this application must be received not later than November 8, 1982.

Board of Governors of the Federal Reserve System, October 8, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28340 Filed 10-14-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Arthritis Advisory Committee

Date, time, and place. November 4 and 5, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, November 4, 9 a.m. to 10 a.m.; open committee discussion, November 4, 10 a.m. to 5 p.m., November 5, 9 a.m. to 5 p.m.; Dotti Moore, National Center for Drugs and Biologics (HFD-150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5197.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of arthritis.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss activities of the Disease-Modifying Anti-Rheumatic Drugs Subcommittee; "Orphan Drugs;" requirements for approval of specific indications for nonsteroidal anti-inflammatory drugs (NSAID's); modification of the liver toxicity warning in NSAID's labeling; and requirements for making claims of less toxicity in the precautionary liver paragraph.

Radiopharmaceutical Drugs Advisory Committee

Date, time, and place. November 5, 9 a.m., Conference Rm. J. Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m., to 11 a.m.; open public hearing, 11 a.m. to 12 m.; open committee discussion, 1 p.m. to 5 p.m.; Neil Abel, National Center for Drugs and Biologics (HFD-150), Food

and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss the status of LAL testing for radiopharmaceuticals; the nuclear pharmacy guidelines; and petitions concerning unapproved uses for approved drugs.

Gastrointestinal Drugs Advisory Committee

Date, time, and place. November 15 and 16, Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and executive secretary. Open public hearing, November 15, 9 a.m. to 10 a.m.; open committee discussion, November 15, 10 a.m. to 5 p.m., November 16, 9 a.m. to 5 p.m.; Joan Standaert, National Center for Drugs and Biologics (HFD-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss dicyclomine hydrochloride; Bentyl Capsules and Injection (NDA 7409, 8370, Merrell-National Laboratories Inc.) for use in the irritable bowel syndrome; chenodeoxycholic acid; Chenix (NDA 18-513, Rowell Laboratories) for use in selected patients for dissolution of gallstones; cimetidine; Tagamet (NDA 17-920, Smith, Kline and French Laboratories) for use in patients at risk of aspirating gastric contents with general anesthesia; Gaviscon (NDA 18-685, Marion Laboratories) for use in heartburn; aluminum hydroxide-magnesium hydroxide antacids; (OTC Antacid; Rorer Company) petition for use in treatment of gastric or duodenal ulcer.

Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel

Date, time, and place. November 19, 8 a.m., Rm. 1409, 200 C St. SW., Washington, DC.

Type of meeting and panel section leader. Open public hearing, 8 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 4:30 p.m.; David S. Shindell, Bureau of Medical Devices (HFK-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before November 1, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the types of data necessary to evaluate premarket approval applications for different types of high frequency ventilators including positive pressure, jet, and oscillation.

Panel on Review of Allergenic Extracts

Date, time, and place. November 19 and 20, 9 a.m., Rm. 121, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, November 19, 9 a.m. to 10 a.m.; open committee discussion, November 19, 10 a.m. to 5 p.m., November 20, 8:30 a.m. to 1 p.m.; Clay Sisk, National Center for Drugs and Biologics (HFB-5), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-5455.

General function of the committee. The panel reviews and evaluates data on the safety, effectiveness, and appropriate use of allergenic biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the panel.

Open committee discussion. The panel will plan the reevaluation of allergenic biological products previously classified in Category IIIA, a designation for those licensed biological products judged to have insufficient available data to classify as safe and effective, but which should remain licensed pending completion of further testing as provided in 21 CFR 601.25(e). This classification of products in this category will be reviewed under the procedures described in the **Federal Register** of October 5, 1982 (47 FR 44062).

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 contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857,

between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: October 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28346 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0300]

AB Casco.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that AB Casco has filed a petition proposing that the food additive regulations be amended to provide for the safe use of dialkyl (C_{16}-C_{18}) carbamoyl chloride as a sizing agent in the manufacture of paper and paperboard.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB3490) has been filed by AB Casco, Box 11010, 100 61, Stockholm, Sweden, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of dialkyl (C_{16}-C_{18}) carbamoyl chloride as a sizing agent in the manufacture of paper and paperboard.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in 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.

Dated: October 1, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-28158 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0295]

American Hoechst Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that American Hoechst Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acesulfame potassium (potassium salt of 6-methyl-1,2,3-oxathiazine-4(3H)-one-2,2-dioxide) as a nonnutritive sweetener.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A3659) has been filed by American Hoechst Corp., Route 202-206 North, Somerville, NJ 08876, proposing that the food additive regulations be amended to provde for the safe use of acesulfame potassium (potassium salt of 6-methyl-1,2,3-oxathiazine-4(3H)-one-2,2-dioxide) as a nonnutritive sweetener.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 1, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-28159 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

San Francisco District Office, chaired by William C. Hill, District Director.

DATE: Wednesday, October 20, 1982, 1 p.m. to 3 p.m.

ADDRESS: Conference Room, Senior Citizens Center of Washoe County, 1155 E. Ninth St., Reno, NV 89720.

FOR FURTHER INFORMATION CONTRACT: Karen K. Erdman, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, San Francisco, CA 94102, 415-556-2062.

Kansas City District Officer, chaired by James A. Adamson, District Director.

DATE: Friday, November 5, 1982, 1 p.m.

ADDRESS: The Shepards Center, 5200 Oak St., Kansas City, MO 64112.

FOR FURTHER INFORMATION CONTACT: Lorena A. Meyers, Consumer Affairs Officer, Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106, 816-374-3817.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 6, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28087 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0240]

Merck Sharp & Dohme Research Laboratories; Reclassification of Lacrisert as an Approved New Drug

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the reclassification of Lacrisert from a medical device approved for marketing to an approved new drug. This reclassification is based on FDA's determination that Lacrisert is more properly classified as a drug product.

FOR FURTHER INFORMATION CONTACT: Howard P. Muller, Jr., National Center for Drugs and Biologics (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: On December 31, 1979, Merck Sharp & Dohme, West Point, PA 19486, submitted to FDA an application for premarket

approval of Lacrisert (hydroxypropyl cellulose ophthalmic insert, MSD). Lacrisert is a rod-shaped, water soluble, ophthalmic preparation intended for moderate to severe dry eye syndrome and for other diseases of the eye. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On June 1, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

This notice announces FDA's decision to reclassify Lacrisert from a medical device approved for marketing to an approved new drug product. The Division of Anti-Infective Drug Products of FDA's Office of New Drug Evaluation has reviewed the application approved by the Bureau of Medical Devices and has found Lacrisert to be safe and effective for use as recommended in its labeling.

FDA's determination that Lacrisert, like artificial tears and a product used as ocular demulcents and ocular emollients, is a drug product based on the definition of the terms "drug" and "device" in sections 201 (g) and (h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 (g) and (h)).

Under section 201(g)(1), the term "drug" is defined to mean, among other things, "* * * articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease" and "articles (other than food) intended to affect the structure or any function of the body." Section 201(h) of the act defines the term "device" as "an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article * * * which is * * * intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or which is "intended to affect the structure or any function of the body," and "* * * which does not achieve any of its principal intended purposes through chemical action within or on the body * * * and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes."

The term "articles," appearing in the definition of "drug," is a broad category that contrasts with the list of specific types of products that are devices, appearing in the definition of "device." To be a device, a product must be "an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article." Except for implants and in vitro reagents, most items in this list are mechanical products that generaly are constructed of solid materials such as metal or plastic. By contrast, a drug is a chemical or a combination of chemicals in liquid, paste, powder, or other drug dosage form that is ingested, injected, or instilled into body orifices, or rubbed or poured onto the body in order to achieve its intended medical purpose. Lacrisert is not an instrument, apparatus, implement, machine, contrivance, implant, or in vitro reagent nor is it similar or related to these products that are listed in the "device" definition; rather, Lacrisert is a combination of chemical entities, intended for in vivo use.

Under the last clause of the "device" definition, FDA may not regulate as a device an article that achieves any of its principal intended medical purposes through chemical action or by being metabolized. Congress has not, however, inserted any counterpart clause into the definition of "drug" that would make chemical or metaboilic action a prerequisite to a product's being regulated as a drug. Nor did Congress, in its 1976 revision of the "device" definition, substitute the broader term "article" for the listing of narrower categories of products to be regulated as devices found in the act since 1938. Rather, Congress simply updated and expanded this listing. There are a number of products that, like Lacrisert, are regulated as drugs even though they do not achieve their principal intended purposes through chemical action or by being metabolized. Among these are sunscreens, dandruff preparations, and various laxative preparations such as mineral oil and psyllium.

Dated: October 7, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28345 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0308]

Rexall Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Rexall Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aspartame as a sweetener in multivitamin food supplements.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A3662) has been filed by Rexall Corp., 3901 North Kingshighway Blvd., St. Louis, MO 63115, proposing that § 172.804 *Aspartame* (21 CFR 172,804) be amended to provide for the safe use of aspartame (1-methyl *N-L-α*-aspartyl-*L*-phenylalanine) as a sweetener in multivitamin food supplements.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 1, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-28157 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0305]

G. D. Searle & Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that G. D. Searle and Co., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aspartame as a sweetener in carbonated beverages.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A3661) has been filed by the Searle Research and Development Division of G. D. Searle and Co. 4901 Searle Parkway, Skokie, IL 60077, proposing that § 172.804 *Aspartame* (21

CFR 172.804) be amended to provide for the safe use of aspartame (1-methyl *N-L-α*-aspartyl-*L*-phenylalanine) as a sweetener in carbonated beverages.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 1, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-28158 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 81P-0094 and 82P-0092]

Varian Canada, Inc., and Garrett Manufacturing Co., Ltd.; Availability of Approved Variances for Aircraft Peripheral Vision Horizon Laser Device

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by the Bureau of Radiological Health for two organizations that have manufactured and exported to the United States a peripheral vision horizon laser device for use in aircraft. One of the companies—Garrett Manufacturing Co., Ltd.—is now the primary, if not the sole, manufacturer and exporter of the product in question. The device projects a line of colored light onto an aircraft instrument panel, which line follows the aircraft's movement in pitch and roll, allowing the pilot to maintain attitude reference using peripheral vision.

DATES: The variance for Varian Canada, Inc., became effective September 23, 1981, and ends September 23, 1986; the variance for Garrett Manufacturing Co., Ltd., became effective June 7, 1982, and ends June 7, 1987.

ADDRESS: The applications and all correspondence on them, except for trade-secret information, have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Varian Canada, Inc., 45 River Dr., Georgetown, ON L7G 2J4, Canada, and Garrett Manufacturing, Ltd., 255 Attwell Dr., Rexdale, ON M9W 5B8, Canada, have been granted variances for the Peripheral Vision Horizon Laser Device from § 1040.10(f) (3), (4), and (5) (ii) and (iii) (21 CFR 1040.10(f) (3), (4), and (5) (ii) and (iii)) of the performance standard for laser products.

Section 1040.10(f) (3), (4) and (5) (ii) and (iii) require the product to be equipped with a remote control connector, a key control, an emission indicator delay, and dual emission indicators. However, these performance features are not appropriate for the Peripheral Vision Horizon Laser Device, which, by its physical design and conditions placed upon it by the variances, utilizes alternate means for providing radiation safety or protection equal to that provided by products meeting the four requirements. The conditions under which the variances are granted relate to additional instructions in the user information, constraints on the physical and optical design, and constraints on sales. All provisions of § 1040.10 other than those cited remain applicable to the laser product.

By letter to each manufacturer, the Director of the Bureau of Radiological Health approved the requested variances. The variances permit the manufacturers to introduce into commerce the Peripheral Vision Horizon Laser Device for use in governmental military and scheduled commercial aircraft. To identify each product by the variance approved for it, FDA requires that each product bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number (which is the docket number) and effective date of the variance. The product manufactured by Variance Canada, Inc., shall bear the variance No. 81P-0094 and the effective date of September 23, 1981. The product manufactured by Garrett Manufacturing Co., Ltd., shall bear the variance No. 82P-0092 and the effective date of June 7, 1982. Each variance expires 5 years after its effective date.

In accordance with § 1010.4, the application and all related correspondence, except information covered by the trade-secret provisions of section 360A(e) of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263i(e)), on the two applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-28155 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0446]

Availability of Toxicological Standards for Food and Color Additive Safety Evaluation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for public comment of a document entitled "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food." This document represents the agency's most recent effort at delineating a scientific framework for developing safety information for the approval of such new additives, and for maintaining an overview of the safety of approved additives.

DATES: Comments by January 13, 1983.

ADDRESS: A copy of this document is available for review at, and individual copies may be obtained from, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD. 20857.

FOR FURTHER INFORMATION CONTACT:

For general information: A. M. Rulis, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

For information relating specifically to toxicological criteria: Charles J. Kokoski, Bureau of Foods (HFF-156), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5705.

SUPPLEMENTARY INFORMATION: The approval of new food and color additives depends on the outcome of the agency's evaluation of appropriate information supplied by the sponsor of the additive. Upon finding that the proposed use of the additive is "safe" within the meaning of the statute and regulations, the agency publishes a regulation permitting such use.

FDA regulations (21 CFR 70.3 and 170.3) elaborate on the statutory term "safe". 21 CFR 170.3(i) defines the safety of food additives as "* * * a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use." The regulatory definition of a "safe" color additive is essentially the same (see 21 CFR 70.3(i)). Other regulations set forth principles that the agency will use in arriving at its safety determinations (21 CFR 70.42 and 170.20). However, §§ 70.42 and 170.20 refer to these principles in relatively general terms. As a result, petitioners have often raised questions over the years about the scientific principles being used by FDA at any particular time to evaluate the safety of food and color additives.

FDA has decided that it would be helpful to petitioners to delineate more clearly the scheme of scientific decisionmaking that the agency uses to evaluate the safety of additives. As the first step in this effort, the agency is making available the "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food." FDA will apply the system outlined in this document to direct food additives and to color additives used in food. Because the safety review of indirect food additives often involves different chemical structure classes and special problems in estimating consumer exposure, the agency does not intend to apply the decisionmaking scheme spelled out in this document to the evaluation of indirect food additives. At some future date, FDA does intend to publish a separate system of tiered information requirements for indirect food additives.

FDA believes that the document will be informative to the public and helpful to petitioners. The document addresses the following issues: (1) Tiered basic information requirements for direct food additives and color additives used in food based upon population exposure and molecular structure; (2) decision elements based on an evaluation of existing data for determining whether there is a need for more specific toxicological information in making safety judgments; (3) "core" standards for evaluating the sensitivity and rigor of previously conducted toxicological studies; (4) "current" standards for evaluating the sensitivity and rigor of new toxicological studies; (5) guidelines that provide suggested protocols for performance of the most commonly employed toxicological studies; and (6) priority-setting elements that can be applied to all direct food additives and color additives used in food so that the agency can more efficiently monitor the safety of approved additives and focus resources on those issues most likely to benefit the public health.

The agency invites comments on all points in the document from all interested persons. Interested persons may, on or before January 13, 1983 submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 6, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-28474 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685-92, February 25, 1970, as amended in pertinent part at 47 FR 3607, January 26, 1982) is amended to reflect organizational changes within the Office of the Commissioner (OC). The functional statements of the Office of Health Affairs, OC, are amended to delete the statements related to scientific liaison and to revise the statements related to professional relations. All science related functions within OC will be performed by a scientific coordination staff reporting directly to the Commissioner. Professional relations activities in the Office of Health Affairs are being reduced due to resource constraints. The Office of Health Affairs will continue to provide coordination for Agency relations with professional groups, but will not longer be involved with developing educational programs for professionals. Professional relations activities of other Agency components are not affected by this change. The changes are intended to improve scientific activities within OC and better allocate resources with regard to professional relations activities.

Section HF-B, Organization and Functions, is amended as follows:

1. Delete paragraph (g) *Office of Health Affairs (HFA5)* in its entirety and substitute the following:

(g) *Office of Health Affairs (HFA5).* Advises and assists the Commissioner and other key officials on health affairs which have an impact on policy, direction, and long-range program goals.

Develops Agency policy and guidelines concerning medical research, training, and fellowship activities; provides for the continuing appraisal of these activities.

Evaluates the adequacy of medical resources available to the Agency.

Evaluates medical research results originating from other Government agencies and private institutions for potential Agency use.

Coordinates Agency relations with professional groups.

Coordinates the nonregulatory international affairs activities of Agency programs and acts as liaison with the Department of State, other nations, international groups, and foreign firms. Coordinates and evaluates international travel plans, prepares the Annual International Travel Plan for the Commissioner's approval. Promotes international scientific collaboration through Pub. L. 480 and other related statutes.

Conducts informal hearings; provides medical/scientific review of hearing requests and of proposed Commissioner's decisions following initial decisions by a public board of inquiry, or by the Administrative Law Judge after formal evidentiary hearings.

Dated: October 6, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-28432 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-01-M

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 47 FR 13587, March 31, 1982) is amended to (1) revise the mission statement for the Centers for Disease Control (CDC) and the functional statement for the Office of the Director (HCA) to reflect the responsibility for administering the

Preventive Health and Health Services Block Grant; (2) revise the functional statement for the Center for Prevention Services (HCM) to delete reference to grants included in the Block Grant and to reflect the division-level substructure within the Center for Prevention Services (HCM); and (3) establish the Office of Administrative Services (HCR13) and the Office of Scientific Services (HCR15) as division-level staff offices within the Office of the Director (HCR1), Center for Infectious Diseases (HCR).

If, in enacting the Fiscal Year 1983 budget, the Congress endorses the Administration's proposal to transfer responsibility for the Preventive Health and Health Services Block Grant to the Office of the Assistant Secretary for Health, a further change in CDC's Statement will be necessary.

Section HC-A Mission, is hereby deleted in its entirety and the following substituted:

Section HC-A Mission. The Centers for Disease Control (CDC) serves as the national focus for developing and applying disease prevention and control, environmental health, and health promotion and health education activities designed to improve the health of the people of the United States.

To accomplish its mission, CDC identifies and defines preventable health problems and maintains active surveillance of diseases through epidemiologic and laboratory investigations and data collection, analysis, and distribution; serves as the PHS lead agency in developing and implementing operational programs relating to environmental health problems, and conducts operational research aimed at developing and testing effective disease prevention, control, and health promotion programs; administers a national program to develop recommended occupational safety and health standards and to conduct research, training, and technical assistance to assure safe and healthful working conditions for every working person; develops and implements a program to sustain a strong national workforce in disease prevention and control; and conducts a national program for improving the performance of clinical laboratories.

CDC is responsible for controlling the introduction and spread of infectious diseases, and provides consultation and assistance to other nations and international agencies to assist in improving their disease prevention and control, environmental health, and health promotion activities. CDC administers the Preventive Health and Health Services Block Grant and specific preventive health categorical grant programs while providing program expertise and assistance in responding to Federal, State, local and private organizations on matters related to disease prevention and control activities.

Section HC-B Organization and Functions, is hereby amended as follows:

1. Under the heading *Office of the Director (HCA),* after item (14), change the period to a semicolon and add the following new item: "(15) administers the Preventive Health and Health Services Block Grant."

2. Under the heading *Center for Prevention Services (HCM),* change item (4) to read: "(4) serves as the primary focus for assisting States and localities, through grants and other mechanisms, in establishing and maintaining prevention and control programs directed toward health problems, such as vaccine preventable diseases, sexually transmitted diseases, dental disease, diabetes, kidney disease, and tuberculosis;". After the functional statement, insert the following:

Office of the Director (HCM1). (1) Manages, directs, and coordinates the activities of the Center for Prevention Services (CPS); (2) provides leadership and guidance in policy formulation, program planning and development, program management, and operations of the CPS; (3) recruits, assigns, and provides career development for field assignees; (4) directs the dental disease prevention activities; (5) provides administrative, fiscal, and technical information services for CPS programs; (6) in carrying out the above, collaborates, as appropriate, with other Centers and Offices of CDC.

Division of Diabetes Control (HCM6). (1) Provides administrative, consultative, training, statistical, epidemiological, evaluative, and other technical and support services to State and local health agencies in the planning, implementation, and overall improvement of diabetes control programs; (2) provides technical and developmental support in establishing other related chronic disease control and prevention strategies; (3) provides technical supervision to State and local assignees working on diabetes and other chronic disease control activities; (4) provides technical assistance in tissue and organ procurement; (5) develops and maintains requisite relationships with official, private, voluntary agencies, universities, foreign countries, and groups involved in chronic disease control programs.

Division of Immunization (HCM2). (1) Administers research and operational programs for the prevention and control of vaccine preventable diseases; (2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning, development, implementation, and overall improvement of programs for the prevention, control, and eventual eradication of serious diseases for which effective immunizing agents are available; (3) supports a nationwide framework for effective surveillance of diseases for which effective immunizing agents are available; (4) provides technical supervision to State and local assignees working on immunization activities.

Division of Quarantine (HCM5). (1) Administers a national quarantine program to protect the United States against the introduction of diseases from foreign countries; (2) administers an overseas program for the medical examination of immigrants and others with excludable health conditions that would impose an economic burden on public health and hospital facilities; (3) maintains liaison with and provides information on quarantine matters to other Federal agencies, State and local health departments, and interested industries; (4) provides liaison with international health organizations, such as the Pan American Health Organization and the World Health Organization, and participates in the development of international agreements affecting quarantine; (5) conducts studies to provide new information about health hazards abroad, measures for their prevention, and the potential threat of disease introduction into the United States; (6) provides logistic support to other programs of CDC in the distribution of requested biologicals.

Division of Tuberculosis Control (HCM3). (1) Administers research and operational programs for the prevention and control of tuberculosis and other respiratory diseases; (2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning, development, implementation, and overall improvement of tuberculosis control programs; (3) supports a nationwide framework for effective surveillance of tuberculosis; (4) provides technical supervision to State and local assignees working on tuberculosis control activities.

Division of Venereal Disease Control (HCM4). (1) Administers research and

operational programs for the prevention and control of syphilis, gonorrhea, and other sexually transmitted diseases; (2) provides consultation, training, statistical, promotional, educational, epidemiological, and other technical services to assist and stimulate State and local health departments in the planning development, implementation, and overall improvement of sexually transmitted disease control programs; (3) supports a nationwide framework for effective surveillance of venereal diseases; (4) provides technical supervision to State and local assignees working on venereal disease control activities.

3. Under the heading *Center for Infectious Diseases (HCR),* after the heading and statement for the *Office of the Director (HCR1),* insert the following:

Office of Administrative Services (HCR13). (1) Plans, coordinates, and provides administrative and management advice and guidance to the CID; (2) provides and coordinates CID-wide administrative, management, and support services in the areas of fiscal management, personnel, travel, and other adminstrative services; (3) coordinates CID requirements relating to procurement, materiel management, cooperative agreements, and reimbursable agreements; (4) provides leadership, guidance, and evaluation of administrative and management services performed at other geographic locations; (5) develops and implements administrative policies, procedures, and operations, as appropriate, for the CID; and provides special reports and studies, as required, in the administrative management area; (6) maintains liaison with the Executive Officer and Staff Service officials of the CDC.

Office of Scientific Services (HCR15). (1) Provides animals, glassware, laboratory media, and other laboratory materials in support of research and service activities to CID laboratories and other CDC organizations; (2) installs, fabricates, modifies, services, and maintains laboratory equipment used in the research and service activities of CDC; (3) performs applied research to improve service activities, including animal breeding and holding services; (4) provides consultation and liaison with other components of CDC and national and international research and professional organizations; (5) provides technical expertise and assistance in professional intramural and extramural training activities.

Dated: October 6, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-28148 Filed 10-14-82; 8:45 am]

BILLING CODE 4160-18-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 8.

Public Health Service

National Institutes of Health

Subject: Cancer Awareness Survey—New
Respondents: Individuals
OMB Desk Officer: Richard Eisinger

Food and Drug Administration

Subject: Product License Application for the Manufacture of Source Plasma (Human) (0910-0040)—Extension
Respondents: Manufacturers of source plasma (human)
OMB Desk Officer: Fay Iudicello

Centers for Disease Control

Subject: Collaborative Physician-Diagnosed Influenza Morbidity Surveillance Reporting System—New
Respondents: Family practitioners (physicians)
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Report to Social Security Administration from Person Outside the United States Receiving Social Security Benefits (SSA-7161-C1 (9-82) and SSA-7162-C1 (9-82))—Revision
Respondents: Individuals or households
Subject: Summary Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support and Individual Case Report (SSA-4680 and SSA-4681-U4 (9-82))—Revision
Respondents: State or local governments
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: Mid-year Head Start Program Information Report (0980-0017)—Reinstatement
Respondents: Head Start programs
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: Feasibility Study of Providers' Component of the National Long-Term Care Demonstration—New
Respondents: Providers of services to the elderly in the National Long-Term Care Channeling Demonstration
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written coments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)

Dated: October 8, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-28449 Filed 10-14-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. NI-103]

Combined Notice; Finding of No Significant Impact and Explanation of Proposed Action in a Floodplain and Wetland

The Department of Housing and Urban Development gives notice concerning the proposed housing development of Leisure Knoll and Leisure Village West, Manchester Township, Ocean County, New Jersey that: (1) A Finding of No Significant Impact (FONSI) has been made based on an Environmental Assessment (EA) of these projects and (2) an explanation of why the proposed action is proposed to be partially located in a floodplain and wetland as required by Executive Orders 11988 and 11990 on Floodplain Management and Wetlands Protection. Comments are solicited before the New York Regional Administrator of HUD makes a final determination whether to proceed without preparing an Envionmental Impact Statement (EIS).

Description

The Leisure Knoll and Leisure Village West retirement communities are

located adjacent to each other near the interchange of State Routes 37 and 70 in Manchester Township, Ocean County, New Jersey. Leisure Technology Corporation plans to develop these two retirement communities by constructing 743 single family detached units at Leisure Knoll and 1372 condominium units at Leisure Village West. The total land area involved is 174 acres at Leisure Knoll and 487 acres at Leisure Village West. The developer of the proposed projects is requesting assistance under the Title X Land Development Program of the National Housing Act.

The Ridgeway Branch and the Union Branch of the Toms River and associated floodplains and wetlands are adjacent to or within the project boundaries of Leisure Knoll and Leisure Village West. HUD proposes to proceed with processing the applications because they will not occupy or modify the floodplains and wetlands, except for a proposed bridge crossing the Ridgeway Branch in Leisure Village West. The floodplain and wetland areas will be preserved as open space, and the bridge will be constructed to meet State and local requirements. The bridge is covered by a permit issued by the State of New Jersey under the Coastal Area Facility Review Act (CAFRA), and a Section 404 permit required by the U.S. Army Corps of Engineers, and there are no feasible alternatives. In addition, impacts from development adjacent to the floodplains and wetlands will be reduced by use of stormwater detention basins to reduce runoff, siltation and sedimentation and appropriate erosion control practices, and adherence to other requirements and standards of the New Jersey Soil Erosion and Sedimentation Control Act.

Purpose of FONSI

According to Council on Environmental Quality and HUD environmental regulations, an environmental assessment (EA) has been prepared to determine whether or not an Environmental Impact Statement is required. It is the finding of the EA that there would be no significant impact on the human environment. Therefore, in accordance with the applicable regulations, a FONSI has been prepared, a Notice to that effect is published, and the Notice of Intended Environmental Impact Statement published on page 1175 of the **Federal Register** of January 11, 1982, is hereby cancelled for these two projects. Pursuant to 40 CFR 1501.4(e)(2) of the CEQ regulations, there will be a thirty (30) day comment period before HUD makes its final determination on the FONSI. Interested individuals, governmental agencies, and private organizations are invited to comment on the FONSI by the date and to the address set forth below.

Purpose of Floodplain and Wetlands Notice

As required by Executive Order 11988, Floodplain Management, and Executive Order 11990, Wetlands Protection, this Notice also provides an explanation of why HUD is considering this proposed action which is partially located in a floodplain and wetland. Interested individuals, governmental agencies, and private organizations are invited to also comment on the floodplain and wetlands implications of the projects by the date and to the address set forth below.

Additional Information and Comments

The Environmental Assessment which serves as the basis for the Finding of No Significant Environmental Impact (FONSI) and supporting documentation related to the Executive Order are available for inspection until the close of the comment period at the Newark Area Office and Camden Service Office, Monday to Friday, 8:30 a.m. to 5:00 p.m. Contact concerning inspections should be made with Mr. Michael Stomackin, Environmental Officer, HUD Newark Area Office, Gateway One, Newark, New Jersey, 07102, telephone: commercial (201) 645–6417 or FTS 342–6417; or with Mr. Elmer Roy, Supervisor, HUD Camden Service Office, 519 Federal Street, Camden, New Jersey 08103, telephone: commercial (609) 757–5081 or FTS 488–5081. (These are not toll-free numbers.)

Comments on the FONSI and Executive Orders should be submitted to the New York Regional Administrator, Joseph D. Monticciolo, 26 Federal Plaza, New York, NY 10278 (Attention Regional Environmental Officer); telephone: (212) 264–5806 within 30 days of the publication of this combined notice.

Dated: October 8, 1982.

Richard H. Broun,

Director, Office of Environment and Energy.

[FR Doc. 82-28396 Filed 10-14-82; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. D-82-684]

Office of the Area Manager, Richmond, Virginia Area Office; Designation of Authority

AGENCY: Housing and Urban Development Department.

ACTION: Designation of Order of Succession.

SUMMARY: The Area Manager is designating officials who may serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: This designation is effective March 19, 1982.

FOR FURTHER INFORMATION CONTACT: Peter M. Campanella, Regional Counsel, Office of Regional Counsel, Philadelphia Regional Office, Department of Housing and Urban Development, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106. Telephone Number (215) 597–2655. This is not a toll-free number.

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability or vacancy in the position:

1. Deputy Area Manager
2. Director, Community Planning and Development Division
3. Director, Housing Division
4. Area Counsel
5. Director, Fair Housing and Equal Opportunity

This designation supersedes the designation effective May 1, 1981.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

I. Margaret White,

Area Manager, Richmond Area Office.

Thomas J. Gola,

Regional Administrator, Region III.

[FR Doc. 82-28400 Filed 10-14-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. NI-42]

Republish Notice of Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice to extend the anticipated publication date of an Environmental Impact Statement on Historic Towne of Smithville, New Jersey. A notice of intent to prepare an EIS was initially published in the **Federal Register** on February 18, 1981, Vol. 46, No. 32, Page 12858. Subsequent developments have delayed the EIS's publication which is not expected in January 1983. The project description, need and alternatives perceived have not changed thereby not affecting the

scope of the project previously described.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

[FR Doc. 82-28399 Filed 10-14-82; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. N-82-1173]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Exective Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Public Interest Group Survey Questionnaire
Office: Inspector General
Form number: None
Frequency of submission: Nonrecurring
Affected public: State and Local Governments
Estimated burden hours: 25
Status: New
Contact: John Greer, HUD, (202) 426-6493; Robert Neal, OMB, (202) 395-6880

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 20, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-28399 Filed 10-14-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-82-1174]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Community Development Block Grant Entitlement Housing Assistance Plan
Office: Community Planning and Development
Form number: HUD-7091, HUD-7092
Frequency of submission: Annually—HUD-7092. Every 3 Years-HUD-7091
Affected Public: Local Governments
Estimated Burden hours: 29,200
Status: New
Contact: Don Darling, HUD, (202) 755-9267; Robert Neal, OMB, (202) 395-6880

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 27, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-28401 Filed 10-14-82; 8:45 am]

BILLING CODE 4210-01-M

Solar Energy and Energy Conservation Bank

[Docket No. N-82-1152]

Availability of Funding Under the Solar Energy and Energy Conservation Bank Act; Amendment of the Time for Receipt of Proposals

AGENCY: Office of the Manager of the Solar Energy and Energy Conservation Bank, HUD.

ACTION: Extension of time for receipt of proposals for the notice of Funding Availability and Notice of Solicitation of Proposals from States, published on August 27, 1982 in the **Federal Register** (47 FR 37960)

CHANGE OF DATE FOR RECEIPT OF PROPOSALS: The subject Notice is hereby amended by extending the Proposal Due Date from 5:00 p.m. Friday, October 15, 1982 until 5:00 p.m., Monday, November 15, 1982. Target dates for implementation of proposals may be delayed accordingly. All other elements of the previous Notice remain unchanged.

(Subtitle A, Title V, Energy Security Act, Pub. L. 96-294; 12 U.S.C. 3601 *et seq.*)

Date signed: October 12, 1982.

Richard H. Francis,

Controller, Solar Energy and Energy Conservation Bank.

[FR Doc. 82-28397 Filed 10-14-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Departmental Fish and Wildlife Policy; State-Federal Relationships

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Interior is preparing a draft Departmental Fish and Wildlife Policy which addresses State-Federal relationships. The purpose of the policy is to clarify State and Federal responsibilities, enhance cooperative relationships, and identify areas for potential cooperative agreements. The public is encouraged to review and comment on the draft.

DATE: The period for public comment will be 45 days from the date of publication in the **Federal Register** (November 29, 1982).

ADDRESS: Send comments to the Director, U.S. Fish and Wildlife Service, Office of Planning and Budget, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Edwin Verburg, Acting Assistant Director, Office of Planning and Budget, U.S. Fish and Wildlife Service, 18th and C Streets, N.W., Washington, D.C. 20240, telephone (202) 343-4328.

SUPPLEMENTARY INFORMATION: The draft Departmental Fish and Wildlife Policy concerns the wildlife management policies of four specific bureaus in the Department of Interior, i.e., Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and National Park Service.

The document presented here represents a significant revision of earlier drafts of a National Fish and Wildlife Policy which were announced in 45 FR 29542 on May 2, 1980 and in 45 FR 63363 on September 24, 1980.

In general, this document does not constitute the formulation of new policy but, rather, the articulation of principles already expressed in a number of existing statutes, regulations, and departmental guidelines. The provisions stated here are intended to replace those found in 36 FR 21034, November 3, 1971, which are outdated.

Dated: October 5, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

Departmental Fish and Wildlife Policy; State-Federal Relationships

I. Introduction

1. In 1970, the Secretary of the Interior developed a policy statement on intergovernmental cooperation in the preservation, use and management of fish and wildlife resources. The purpose of the policy (36 FR 21034, November 3, 1971) was to strengthen and support the missions of the several States and the Department of the Interior respecting fish and wildlife. Since development of the policy, a number of congressional enactments and court decisions have addressed State and Federal responsibilities for fish and wildlife. Despite the existence of congressionally expanded Federal functions relating to fish and wildlife, the result of specific congressional enactments to deal with specific needs, Federal authority exists for specified purposes while State authority remains the comprehensive backdrop applicable in the absence of specific, overriding congressional enactments.

2. It is the purpose of the Departmental Fish and Wildlife Policy to reaffirm the role of the States in this area by restating succinctly the Federal and the State authorities in order to eliminate confusion over basic responsibilities and foster improved conservation of fish and wildlife. Uncertainty as to fundamental authority and responsibility is a situation that fish and wildlife can no longer afford. Moreover, in recognition of the scope of its activities in managing hundreds of millions of acres of land within the several States, the Department of the Interior will continue to seek new opportunities to foster a "good neighbor" policy with the States.

3. This policy is intended to clarify and support State and Federal responsibilities, enhance cooperative relationships, and identify new areas for potential cooperative agreements. In pursuing such a policy, this Department will be furthering the manifest congressional policy of Federal-State cooperation that pervades statutory enactments in the areas of fish and wildlife conservation.

II. Cooperation with States

1. The Secretary of the Interior recognizes that fish and wildlife must be maintained for their ecological, cultural, educational, historical, aesthetic, scientific, recreational, economic and social values to the people of the United States. The several States and the Federal Government must work in harmony for the common objective of conserving and managing them. It is the policy of the Secretary of the Interior to strengthen and support, to the maximum legal extent practicable, the missions of the States and the Department of the Interior in the attainment of this objective.

2. The effective stewardship of fish and wildlife requires the cooperation of the several States and the Federal Government because:

(a) The several States have broad trustee and police powers to control and regulate the taking and possession of fish and resident wildlife within State boundaries;

(b) In the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) Congress has reaffirmed that the responsibility and authority of the States for fish and resident wildlife on public lands managed under principles of multiple use is neither enlarged nor diminished;

(c) Congress has charged the Secretary of the Interior with responsibilities for the management of certain fish and wildlife resources, e.g., endangered and threatened species, migratory birds and their habitat, certain marine mammals and anadromous fish; and

(d) The Congress has directed that the Secretary of the Interior, in cooperation with the States, develop and undertake

habitat conservation and rehabilitation programs for fish and wildlife on public lands managed under the principles of multiple use by the Department of Interior.

III. General Jurisdictional Principles

1. In general the States possess broad trustee and police powers over fish and wildlife within their borders, including fish and wildlife found on Federal lands within a State. Under the Property Clause of the Constitution, Congress is given the power to "make all needful Rules and regulations respecting the Territory or other Property belonging to the United States." In the exercise of power under the Property Clause, Congress may choose to preempt State management of fish and wildlife on Federal lands and, in the exercise of power under the Commerce Clause, Congress may choose to establish restrictions on the taking of fish and wildlife, whether or not the activity occurs on Federal lands, as well as to establish restrictions on possessing, transporting, importing, or exporting fish or wildlife. Finally, a third source of Federal constitutional authority for the management of fish and wildlife is the treaty making power. This authority was first recognized in the negotiation of a migratory bird treaty with Great Britain on behalf of Canada in 1916.

2. The exercise of congressional power through the enactment of Federal fish and wildlife conservation statutes has generally been associated with the establishment of regulations more restrictive than those of State law. Also, the power of Congress respecting the taking of fish and wildlife has been exercised as a prohibitory power, except in those situations where the taking of these resources is necessary to protect Federal property. With these exceptions, and in spite of the existence of constitutional power respecting fish and wildlife on Federally owned lands, Congress has, in fact, generally declined to diminish the responsibility and authority of the States to manage fish and resident wildlife on Federal lands.

IV. Resource Management and Public Activities on Federal Lands

1. The four major systems of public lands administered by the Department of the Interior are lands administered by the Bureau of Reclamation, Bureau of Land Management, units of the National Wildlife Refuge System, national fish hatcheries, and units of the National Park System.[1]

2. The Bureau of Reclamation withdraws public lands and acquires non-Federal lands for construction and operation of water resource development projects within the 17 Western States. Recreation and conservation or enhancement of fish and wildlife resources are often designated project purposes. General authority for Reclamation to modify project structures, develop facilities, and acquire lands to accommodate fish and wildlife resources is given in the Fish and Wildlife Coordination Act of 1946, as amended (16 U.S.C. 661–667e). That act further provides that the lands, waters and facilities designated for fish and wildlife management purposes, in most instances, should be made available by cooperative agreement to the agency exercising the administration of these resources of the particular State involved. The Federal Water Project Recreation Act of 1965, as amended, also directs Reclamation to encourage non-Federal public bodies to administer project land and water areas for recreation and fish and wildlife enhancement.

3. BLM-administered lands comprise in excess of 300 million acres that support significant and diverse populations of fish and wildlife. Congress in the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701 *et seq.*) directed that such lands be managed by the Secretary under principles of multiple use and sustained yield, and explicitly reaffirmed that the responsibility and authority of the States for management of fish and resident wildlife on such lands is neither enlarged nor diminished. Concomitantly, the Secretary of the Interior is charged with the responsibility to manage such lands for multiple uses, including fish and wildlife development and utilization, and in exercising this responsibility the Secretary is empowered to close areas to hunting, fishing or trapping for specified reasons viz., public safety, administration, or compliance with provisions applicable law. The closure authority of the Secretary is thus a power to close areas to particular activities for particular reasons and does not constitute a grant to the Secretary of wildlife management authority.

4. While the several States therefore possesses primary responsibility for management of fish and resident wildlife on such multiple use lands, the Secretary, through the Bureau of Land Management, has custody of the land itself and the habitat upon which fish and resident wildlife are dependent. Management of the habitat is a responsibility of the Federal Government. Nevertheless, Congress in the Sikes Act has directed the Secretary of the Interior to cooperate with the States in developing programs on certain public lands, including those administered by BLM and the Department of Defense, for the conservation and rehabilitation of fish and wildlife including specific habitat improvement projects.

5. Units of the National Wildlife Refuge System occur in nearly every State and constitute Federally owned or controlled areas set aside primarily as conservation areas for migratory waterfowl and other species of fish or wildlife. Units of the system also provide outdoor enjoyment for millions of visitors annually for the purpose of hunting, fishing and wildlife-associated recreation. In 1962 and 1966, Congress authorized the use of National Wildlife Refuges for outdoor recreation provided that it is compatible with the primary purposes for which the particular refuge was established. In contrast to multiple use public lands, the conservation, enhancement and perpetuation of fish and wildlife is invariably the principal reason for the establishment of a unit of the National Wildlife Refuge System. In consequence, Federal activity respecting management of migratory waterfowl and other wildlife residing on units of the National Wildlife Refuge System involves a Federal function specifically authorized by Congress. It is therefore for the Secretary to determine whether units of the System shall be open to public uses, such as hunting and fishing, and on what terms such access shall be granted. However, in recognition of the existing jurisdictional relationship between the States and the Federal Government, Congress, in the National Wildlife Refuge System Administration Act, has explicitly stated that nothing therein shall be construed as affecting the authority of the several States to manage fish and resident wildlife found on units of the System. Thus, Congress has directed that, to the maximum extent practicable, such public uses shall be consistent with State laws and regulations. Units of the National Wildlife Refuge System, therefore shall be managed, to the extent practicable and compatible with the purposes for which they were established, in accordance with comprehensive Statewide plans for fish and wildlife and Regional Resource Plans developed by the Fish and Wildlife Service in cooperation with the States.

[1] Hereinafter, the Bureau of Reclamation, Bureau of Land Management, Fish and Wildlife Service, and National Park Service will be referred to collectively as "Federal agencies."

6. Units of the National Park System contain natural, recreation, historic, and cultural values of national significance as designated by Executive and Congressional action. Specific enabling legislation has authorized limited hunting, trapping or fishing activity within certain areas of the system. As a general rule, consumptive resource utilization is prohibited. Those areas which do legislatively allow hunting and fishing, do so in conformance with applicable Federal and State laws. The Superintendent may, in consultation with the appropriate State agency, fix times and locations where such activities will be prohibited. Areas of the National Park System which permit fishing generally will do so in accordance with existing law.

In areas of exclusive Federal jurisdiction, State laws shall not be applicable. However, every attempt shall be made to consult with the appropriate States to minimize conflicting and confusing regulations which may cause undue hardship.

The management of habitat for species of wildlife, populations of wildlife, or individual members of a population shall be in accordance with a Park Service approved Resource Management Plan. The appropriate States shall be consulted prior to the approval of management actions, and memoranda of understanding shall be executed as appropriate to ensure the conduct of programs which meet mutual objectives.

7. Federal agencies of the Department of Interior shall:

(a) Prepare fish and wildlife management plans in cooperation with State fish and wildlife agencies. Where such plans are prepared for Federal lands adjoining State or private lands the agencies shall consult with the State or private landowners to coordinate management objectives;

(b) Within their statutory authority, institute fish and wildlife habitat management practices in cooperation with the States to assist the States in accomplishing their fish and wildlife resource plans;

(c) Encourage public use of Federal lands (unless their use is prohibited by State or Federal law) and permit public hunting, fishing and trapping within statutory and budgetary limitations and in a manner compatible with the primary objectives for which the lands are administered. Such hunting, fishing, and trapping, and the possession and disposition of fish, game, and fur animals, shall be conducted in all other respects within the framework of applicable State laws, including requirements for the possession of appropriate State licenses or permits. Nothing contained herein shall be construed as permitting public hunting, trapping or habitat modification on any areas of the National Park System where such activities are prohibited by law;

(d) For those Federal lands that are already open for hunting, fishing, or trapping, closure authority shall not be exercised without prior consultation with the affected States, except in emergency situations. The Bureau of Land Management and Bureau of Reclamation may, after consultation with the States, close all or any portion of public land under their jurisdiction to public hunting, fishing, or trapping for reasons of public safety, administration, or compliance with provisions of applicable law. Furthermore, the National Park Service and Fish and Wildlife Service may, after consultation with the States, close all or any portion of Federal land under their jurisdictions, or impose such other restrictions as are deemed necessary, for reasons required by the Federal laws governing the management of their areas; and

(e) Consult with the States and comply with State permit requirements in connection with the activities listed below, except in instances where the Secretary of the Interior determines that such compliance would prevent him from carrying out his statutory responsibilities:

(1) In carrying out research programs involving the taking or possession of fish and wildlife or programs involving introduction of fish and wildlife;

(2) For the planned and orderly removal of surplus or harmful populations of fish and wildlife except where emergency situations requiring immediate action make such consultation and compliance with State permit requirements infeasible; and

(3) In the disposition of fish and wildlife taken under paragraph (e) (1) or (2) of this section.

V. International Agreements

1. International conventions have increasingly been utilized to address fish and wildlife issues having dimensions beyond national frontiers. The authority to enter into such agreements is reserved to the President by and with the advice and consent of the Senate. However, while such agreements may be valuable in the case of other nations, in a Federal system such as ours sophisticated fish and wildlife programs already established at the State level may be weakened or not enhanced.

2. To ensure that effective fish and wildlife programs already established at the State level are not weakened, the policy of the Department of Interior shall be to recommend that the United States negotiate and accede to only those international agreements that are supportive of effective State programs designed to ensure the perpetuation of fish and wildlife populations.

3. It shall be the policy of the Department to actively solicit the advice of affected State agencies and to recommend to the U.S. Department of State that representatives of such agencies be involved before and during negotiation of any new international conventions concerning fish and wildlife.

VI. Cooperative Agreements

1. By reason of the congressional policy (e.g., Fish and Wildlife Coordination Act of 1956) of Federal-State cooperation in the area of fish and wildlife conservation, Federal and State agencies have implemented cooperative agreements for a variety of fish and wildlife programs on Federal lands. This practice shall be continued and encouraged. Appropriate topics for such cooperative agreements include but are not limited to:

(a) Protection, maintenance, and development of fish and wildlife habitat;

(b) Fish and wildlife introduction and propagation;

(c) Research and other field study programs including those involving the taking or possession of fish and wildlife;

(d) Fish and wildlife resource inventories and data collection;

(e) Law enforcement;

(f) Educational programs;

(g) Toxicity/mortality investigations and monitoring;

(h) Animal damage management;

(i) Endangered species;

(j) Habitat preservation (e.g., joint processing of permits);

(k) Processing of State and Federal permit applications for activities involving fish, wildlife and plants;

(l) Management activities involving fish and wildlife; and

(m) Disposition of fish and wildlife taken in conjunction with the activities listed in this paragraph.

2. The cooperating parties shall periodically review such cooperative agreements and adjust them to reflect changed circumstances.

VII. Exemptions

1. Exempted from this policy are the following:

(a) The control and regulation by the United States, in the area in which an international convention or treaty applies, of the taking of those species

and families of fish and wildlife expressly named or otherwise covered under any international treaty or convention to which the United States is a party;

(b) Any species of fish and wildlife, control over which has been ceded or granted to the United States by any State; and

(c) Areas over which the States have ceded exclusive jurisdiction to the United States.

2. Nothing in this policy shall be construed as affecting in any way the existing authorities of the States to establish annual harvest regulations for fish and resident wildlife on Federal lands where public hunting, fishing or trapping is permitted.

[FR Doc. 82-28116 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[M 55148]

Montana; Realty Action Exchange

October 6, 1982.

AGENCY: BLM—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M 55148, Exchange of public and private lands in Petroleum County and Fergus County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 USC 1716:

Principal Meridian

T. 18 N., R. 27 E.,
Sec. 3, SW¼, and W½SE¼; and
Sec. 4, SE¼NE¼ and NE¼SE¼.

Aggregating 320 acres of public land. In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian

T. 20 N., R. 27 E.,
Sec. 5, lots 2 to 4, inclusive, SW¼NE¼, S½NW¼, SW¼, and NW¼SE¼; and
Sec. 6, SE¼SE¼.

Aggregating 426.57 acres of private land.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire Missouri River Breaks land containing two historic log structures. In return 320 acres, of which 80–100 acres are suitable for agriculture, would be transferred to private ownership.

The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making the exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for the lands being transferred out of federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. Value equalization by cash payment or acreage adjustment.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

SEGREGATION: The publication of this notice in the **Federal Register** segregates the public lands described above from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of a conveyance document or in two years, whichever comes first.

Kannon Richards,

Acting State Director.

[FR Doc. 82-28424 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55832]

Montana; Realty Action—Exchange

October 6, 1982.

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M 55832—Exchange of public and private lands, Carbon and Phillips Counties, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian

T. 28 N., R. 31 E.,
Sec. 10, S½; and
Sec. 15, all.

Containing 960.00 acres of public lands.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian

T. 7 S., R. 19 E.,
Sec. 33, tracts 37 and 38; and
Sec. 34, S½NE¼, W½, and W½SE¼.

Containing 800.00 acres of private lands.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire a parcel of privately owned land within the Custer National Forest. This land will be transferred to the Forest Service to support a multiple use Federal program and the economy. The multiple use values include, but are not limited to water quality, recreation, wildlife habitat and cultural resources.

The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making the exchange. The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the

United States in accordance with 43 U.S.C. 945, for the lands being transferred out of Federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. Value equalization by cash payment or acreage adjustment.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

Kannon Richards,

Acting State Director.

[FR Doc. 82-28425 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-84-M

[W-34551]

Wyoming; Proposed Continuation of Withdrawal

October 5, 1982.

The Bureau of Land Management, U.S. Department of the Interior, proposes to continue the existing withdrawal of the following public lands made by Public Land Order 5345 of May 31, 1973, for a 20 year period pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714):

Sixth Principal Meridian, Wyoming

T. 42 N., R. 84 W.
- Sec. 15, SE¼, S½SW¼;
- Sec. 19, lots 3, 4, SE¼SW¼, S½SE¼;
- Sec. 20, E½NE¼, SW¼NE¼, SE¼NW¼, S½;
- Sec. 21, N½;
- Sec. 22, N½NW¼, NE¼SE¼;
- Sec. 23, S½NW¼;
- Sec. 28, N½NW¼;
- Sec. 29, N½;
- Sec. 30, lots 1, 2, NE¼, E½NW¼.

T. 42 N., R. 85 W.,
- Sec. 15, SE¼SW¼, S½SE¼;
- Sec. 19, S½NE¼, NE¼SW¼, SE¼;
- Sec. 20, SW¼NW¼, W½SW¼, E½SE¼;
- Sec. 21, S½;
- Sec. 22, NE¼, E½NW¼, S½;
- Sec. 23, NW¼, NW¼SW¼;
- Sec. 24, W½NE¼, N½NW¼, N½SE¼, SE¼SE¼;
- Sec. 25, N½N½;
- Sec. 26, SE¼NE¼;
- Sec. 28, NW¼, N½S½;
- Sec. 29, NE¼, NE¼NW¼, S½NW¼, N½S½;
- Sec. 30, lot 1, N½NE¼, NE¼, NE¼NW¼, N½SE¼.

T. 42 N., R. 86 W.,
- Sec. 26, S½NE¼, SE¼NW¼, SE¼.

The area described contains 5,598.60 acres in Johnson and Washakie Counties, Wyoming.

The purpose of the withdrawal is for the protection of wildlife habitat, recreational and historical values in the Middle Fork of the Powder River area.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a meeting to the undersigned before (90 days after publication in the **Federal Register**). Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice will be published in the **Federal Register** giving the time and place of such meeting. Public meetings are scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

The authorized officer of the Bureau of Land Management will make necessary investigations to determine the existing and potential demands for the land and its resources and review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be sent to the undersigned officer, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-28426 Filed 10-14-82; 8:48 am]

BILLING CODE 4310-84-M

Arizona, Safford District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Safford District Grazing Advisory Board will be held on Friday, November 19, 1982.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management, 425 East 4th Street, Safford, Arizona 85546.

The agenda for the meeting will include:

1. Discussion on the new grazing regulations;
2. The Board's response to the range public affairs plan;
3. Comments from the Board on the grazing fee study;
4. Allotment management plans to be completed in Fiscal Year 1983;
5. BLM management update;
6. Business from the floor.

The meeting will be open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. A written copy of the oral statement must be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land management, 425 East 4th Street, Safford, Arizona 85546, by 4:15 p.m., Thursday, November 18, 1982.

Summary Minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: October 8, 1982.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 82-28374 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14832-A, F-14832-B]

Alaska Native Claims Selection

On November 18, 1980, a Decision to Issue Conveyance (DIC) was issued to Ingalik, Incorporated and published in the **Federal Register** on page 77149. The DIC reserved an easement (EIN 3 C3, D1, D9) which was described as follows on page 77151:

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)). (EIN 3 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the village of Anvik in Sec. 32, T. 30 N., R. 58 W., Seward Meridian, easterly toward the village of Shageluk. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

On December 11, 1981, the Alaska Native Claims Appeal Board ordered the Bureau of Land Management to identify the above-referenced easement according to the amended State Director's Memorandum of October 1, 1981. The easement is now described as follows:

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide tail easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)). (EIN 3 C3,

D1, D9) An easement for an existing trail, twenty-five (25) feet in width, between the villages of Anvik and Shageluk, beginning at a point on the western bank of the island in Sec. 33, T. 30 N., R. 58 W., Seward Meridian, easterly toward the village of Shageluk. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The DIC, dated November 18, 1980, also included those water bodies determied to be navigable as recommended in the Alaska State Director (SD), BLM memorandum dated March 28, 1980, concerning final easements and navigability determinations for the village of Anvik, and amended on August 26, 1980.

On March 6, 1981, a further amendment to the SD memorandum of March 28, 1980, was issued which contained an administrative redetermination of navigability of the water bodies within the Anvik conveyance area, therefore, the navigability information is modified as follows:

Page 77151—The paragraph beginning "Within the above-described lands" now reads:

Within the above described lands, only the following inland water bodies are considered to be navigable:

The Yukon River and its interconnecting sloughs;
the Anvik River;
the Bonasila River;
Bonasila Slough;
Peter Hamilton's Slough from its mouth in Sec. 18, T. 28 N., R. 58 W., Seward Meridian to the northerly boundary of Sec. 22, T. 29 N., R. 58 W., Seward Meridian;
Deadman's Slough from Sec. 20, T. 29 N., R. 58 W., Seward Meridian, to the west boundary of Sec. 7, T. 29 N., R. 58 W., Seward Meridian; and
The unnamed slough connecting the Bonasila River and
Deadman's Slough, which begins in Sec. 1, T. 28 N., R. 60 W., Seward Meridian and flows northerly to Deadman's Slough in Sec. 18, T. 29 N., R. 58 W., Seward Meridian.

This paragraph is hereby modified to change three of the above listed water bodies to the following:

The Anvik River and interconnecting sloughs;
The Bonasila River and interconnecting sloughs;
Peter Hamilton's Slough from its mouth in Sec. 18, T. 28 N., R. 58W., Seward Meridian, to the end of the double-lined portion (according to the survey plat) in Sec. 10, T. 29 N., R. 58 W., Seward Meridian, and including the double-lined forked portion (according to the survey plat) lying in the easterly portion of Sec 15 and 22, T. 29 N., R. 58 W., Seward Meridian.

The DIC of November 18, 1980, approved conveyance of the surface estate of the beds of the above-described water bodies to Ingalik, Incorporated and conveyance of the subsurface estate of the same land to Doyon, Limited. As the water bodies added by this modification are now considered navigable, the submerged lands beneath them are not public lands and are therefore not available for conveyance to the Native corporations under the Alaska Native Claims Settlement Act (43 CFR 2650.0–5 (g)). Therefore, the DIC of November 18, 1980, is hereby modified to exclude the submerged lands of the above-described water bodies from the approval for conveyance to Ingalik, Incorporated and Doyon, Limited. The acreage of the lands will not be charged against the village corporation's entitlement.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Tundra Times*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 *Code of Federal Regulations* (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 15, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are: State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510; Ingalik, Incorporated, Anvik, Alaska 99558; Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99710.

Except as modified by this decision, the decision of November 18, 1980, stands as written.

Barbara Lange,
Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-28579 Filed 10-14-82; 8:45 am]
BILLING CODE 4310-84-M

[Serial No. I-18897]

Idaho; Conveyance of Public Lands; Owyhee County

October 7, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following-described public lands have been sold to Roger W. and Larry D. Hinton, Route 6, Box 227, Caldwell, Idaho 83605.

Boise Meridian, Idaho

T. 5 S., R. 3 W.,
Sec. 6, lot 62.
Comprising 0.25 acres.

The lands were conveyed to resolve a very complicated and long standing occupancy problem in the old historic mining area of Silver City. The public interest was well served through the completion of the sale. The fair market value of the land was appraised at $385.00 and payment of this amount was received by the United States.

Vincent S. Strobel,
Acting Chief, Division of Operations.

[FR Doc. 82-23427 Filed 10-14-82; 8:45 am]
BILLING CODE 4310-84-M

[U-034605]

Utah; Proposed Continuation of Withdrawal as Modified

The Bureau of Land Management, U.S. Department of Interior, propose to continue the Wolverine Petrified Wood Area, described below, purusant to

Section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751) (43 U.S.C. 1714) for a 20 year period. The withdrawal as established by public Land Order No. 2061 of March 1, 1960, for a Recreation and Scientific Preservation Area.

Salt Lake Meridian, Utah

T. 34 S., R. 6 E.,
Sec. 34, E½E½;
Sec. 35, SW¼, W½SE¼, SE¼SE¼, NW¼NW¼, S½NW¼.
T. 35 W. S., R. 6 E.,
Sec. 1, All;
Sec. 3, E½.

Aggregating 1,520.00 acres in Garfield County.

The purpose for this withdrawal is for petrified wood and the protection of natural resources, and preservation, protection, care, and development of the recreation values thereof, and the preservation of objects of historical and scientific interest therein.

The original site contained 2,560 acres. The purpose is to reduce the acreage to 1,520 as being the minimum acreage needed for maximum protection. No change in land use is expected upon continuation and modification of this withdrawal.

On or before January 15, 1983, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before January 15, 1983. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with 43 CFR 2310.3-1(b)(1).

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the lands is provided for, and an agreement is reached on the concurrent management of the lands and their resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: October 6, 1982.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-28365 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-84-M

Vernal District, Utah; Amendment to Brown's Park Management Framework Plan

In accordance with Pub. L. 94-579, and 43 CFR 1601.3(g), the Vernal District Office is requesting public comments regarding its proposal to amend the Management Framework Plan (MFP) for the Brown's Park Planning Unit in northeastern Utah. The Brown's Park MFP would be amended to designate two Areas of Critical Environmental Concern (ACEC) associated with the Green River drainage. The ACEC designations would require the future approval by BLM of adequate environmental protection plans prior to the issuance of permits for mining, construction or other activities of environmental concern.

The area of the proposed *Green River Scenic Corridor ACEC* is noted for its scenic, aesthetic, historic, archaeologic, biologic and scientific values. It is located in Townships 1 and 2 North, Ranges 23, 24, and 25 East, SLB & M within line of site or two miles of the river bank, whichever is closer.

Designation of the *Red Creek Watershed ACEC* would supplement and be consistent with the ACEC designation on the Wyoming portion of the Red Creek Watershed. The Wyoming portion of the Red Creek Watershed was designated an ACEC by **Federal Register** Notice of June 30, 1982, Vol. 47, No. 126 p. 28460.

The area would be administered to give primary emphasis to watershed protection and the reduction of sediment contributed to the Green River by Red Creek. It is located in Townships 2 and 3 North, Ranges 23, 24, and 25 East, SLB & M.

The issues which have been tentatively identified by an interdisciplinary team, and will be addressed in the amendments are: Endangered Species, Minerals, Range and Woodlands, Wildlife Habitat, Archaeological and Historical Resources, Watershed, Soils, Access, Recreation, Socio-economics, and Visual Resources.

Public participation activities will consist of requests for comments in this notice, news releases, and a public review period of the Draft Environmental Assessment to be prepared as part of the amendment process. Full consideration will be given to all comments received from these or any other sources. Comments should be received by November 10, 1982, c/o Ralph Heft, Area Manager, BLM, 170 South 500 East, Vernal, Utah 84078, telephone (801) 789-1362. Documents relevant to amending the Brown's Park MFP may be examined at the above address during hours, 7:45 a.m. to 4:30 p.m., Monday-Friday.

L. H. Ferguson,

District Manager.

[FR Doc. 82-28366 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Upper Delaware National Scenic and Recreational River New York and Pennsylvania; Availability of Draft Environmental Impact Statement and Notification of Public Meetings

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a draft environmental impact statement for the Upper Delaware National Scenic and Recreational River. The proposal involves a plan for the management, protection and use of a 75-mile river corridor along the Upper Delaware River involving 79,435 acres of land. A coordinated local, state and federal management of the area is proposed involving the formation of an intergovernmental coordinating council

The three alternatives being considered are a continuation of existing policies, maximum protection of area resources, and promotion of tourism and commercial visitor-oriented development.

Summaries of the draft plan/environmental impact statement are

available upon request to: Upper Delaware Planning Team, National Park Service, Box 13, Milanville, Pennsylvania 18443, (telephone: (914) 932-8681).

Copies of the complete text will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, (telephone (202) 343-6843)

Office of Public Affairs, National Park Service, Mid-Atlantic Regional Office, 143 South Third Street, Philadelphia, Pennsylvania 19106, (telephone (215) 597-3679)

Upper Delaware National Scenic and Recreational River, National Park Service Headquarters, P.O. Box C, Narrowsburg, New York 12764, (telephone (717) 729-7135)

Upper Delaware National Scenic and Recreational River, National Park Service North District Office, One Bridge Street, Cochecton, New York 12726, (telephone (914) 932-8218)

Upper Delaware National Scenic and Recreational River, National Park Service, South District Office, Shohola, Pennsylvania 18458, (telephone (717) 559-7527)

Public reading copies are also available at Hawley, Milford, Honesdale, Port Jervis, Eldred, Callicoon, Jeffersonville, Monticello and Hancock libraries; Delaware, Sullivan, Orange, Wayne and Pike County Clerk or prothonotary offices; and Hancock, Cochecton, Delaware, Fremont, Highland, Lumberland, Tusten, Deerpark, Berlin, Buckingham, Damascus, Manchester, Lackawaxen, Shohola, and Westfall town/township halls.

A series of five public meetings will be held to obtain public comment and to provide information. These meetings will be held at the following locations:

Orange County

Saturday, October 30, 10:30 am, Deerpark Town Hall, Route 209, Huguenot, New York

Sullivan County

Thursday, November 4, 8:00 PM, Delaware Valley Central School Cafeteria, Hankins, New York

Pike County

Monday, November 8, 7:00 PM, Shohola Fire Hall, PA Route 434, Shohola Pennsylvania

Delaware County

Tuesday, November 9, 7:00 PM, Hancock, Fire Hall, Hancock, New York

Wayne County

Wednesday, November 10, 7:00 PM, Damascus School, PA Route 371, Damascus, Pennsylvania

Comments on the Draft Environmental Impact Statement are invited from all interested parties and should be forwarded no later than 60 days from the date of this notice to: Superintendent, Upper Delaware National Scenic and Recreational River, P.O. Box C, Narrowsburg, New York 12764.

Dated: October 12, 1982.

Homer J. Rouse,

Acting Regional Director.

[FR Doc. 82-28402 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-70-M

Availability of Plans of Operations for the Purpose of Oil Drilling Operations; Big Cypress National Preserve

In accordance with § 9.52 of Title 36 of the Code of Federal Regulations, Big Cypress National Preserve has received from Hughes and Hughes Oil Company, Plans of Operations for the purpose of oil drilling in the Baxter Island and Northwest Jetport areas of the Preserve. The public is invited to review and comment on the Plans of Operations, copies of which are available for review during normal business hours at Everglades National Park, Route 27, 12 miles south of Homestead, Florida; Big Cypress National Preserve, Ochopee, Florida; Miami-Dade Public Library System, Main Library, 1 Biscayne Boulevard, Miami, Florida; Collier County Public Library, 650 Central Avenue, Naples, Florida; and at the National Park Service, Southeast Regional Office, 75 Spring Street, S.W., Atlanta, Georgia. Comments received on or before (30 days after publication in the **Federal Register**) will be entered into the official record. For further information, contact Pat Tolle, Management Assistant, Everglades National Park (305) 247-6211.

Dated: October 4, 1982.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 82-28258 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions 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, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances 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 requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review Board [1]	Decided date
302	Missouri Pacific Railroad Co., Exemption for Contract Tariff ICC-Mp-C-0141 (Corn, Grain Sorghums, Soybeans and Wheat Via Ports in Louisiana and Texas)	2	10-08-82
308	Atchison, Topeka and Santa Fe Railway Company Exemption for Contract Tariff ICC-ATSF-C-0116 (Wheat Flour)	2	10-08-82
311	Seaboard Coast Line Railroad Company, Louisville & Nashville Railroad Company, and Norfolk and Western Railway Company Exemption for Contract Tariff ICC-SCL-C-0044 (Superphosphate)	3	10-08-82

[1] Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell. (Board Member Dowell not participating.)

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

(49 U.S.C. 10505)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28352 Filed 10-14-82; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: The Continental Group, Inc., (formerly Continental Can Co., Inc.), One Harbor Plaza, Stamford, Connecticut 06902.

2. Wholly-owned subsidiaries which will participate in the operatons, and States of incorportion:

(a) Continental Forest Industries, Inc. (Delaware)
(b) Continental Hopewell Woodlands, Inc. (Delaware)
(c) Continental Augusta Woodlands, Inc. (Delaware)
(d) Continental Savannah Woodlands, Inc. (Delaware)
(e) Continental Hodge Woodlands, Inc. (Delaware)
(f) Continental Hopewell, Inc. (Delaware)
(g) Continental Bleached Products, Inc. (Delaware)
(h) Continental Port Wentworth, Inc. (Delaware)
(i) Continental Hodge, Inc. (Delaware)
(j) Continental Corrugated, Inc. (Delaware)
(k) Continental Fibre Drum, Inc. (Delaware)
(l) Continental Folding Carton, Inc. (Delaware)
(m) Continental Consumer Products, Inc. (Delaware)
(n) Continental Solid Wood Products, Inc. (Delaware)
(o) Continental Land Resources, Inc. (Delaware)
(p) Conolease Incorporated (Delaware)
(q) Great Plains Bag Corporation (Delaware)
(r) ConoKraft International, Inc. (Delaware)
(s) Central Louisiana & Gulf Railroad (Delaware)
(t) Steelpak, Inc. (Virginia)
(u) North Louisiana & Gulf Railroad (Louisiana)
(v) All Points Distribution Centers, Inc. (Delaware)
(w) Continental White Cap, Inc. (Delaware)
(x) Continental Plastic Containers, Inc. (Delaware)
(y) Continental Bondware, Inc. (Delaware)
(z) Continental Plastic Beverage Bottles, Inc. (Delaware)
(aa) Continental Plastic Industries of Europe, Inc. (Delaware)
(bb) Continental Can International Corporation (Delaware)
(cc) Continental Shellmar, Inc. (Delaware)
(dd) Continental Can Equipment Company, Inc. (Delaware)
(ee) Continental Packaging Company, Inc. (Delaware)
(ff) Continental of Panama Incorporated (Panama)
(gg) Continental Can Company, (U.K.) Ltd. (Delaware)
(hh) Conotrade International, Inc. (Delaware)
(ii) Colonial Canners Ltd. (Canada)
(jj) Continental Can Company, Inc. (Delaware)

1. Parent corporation and address of principal office: Jelco Wisconsin Inc., P.O. Box 1389, Waukesha, WI 53187.

Wholly-owned subsidiaries that will particiapte in the operations:

(i) August Lotz Company, Inc., P.O. Box 39, Boyd, WI 54726
(ii) Stanwood Corporation, 711 North Broadway Stanley, WI 54768

1. Parent company and address of principal office: Johnson Logging Company, a Maryland corporation, Route 2, Box 590, Easton, Maryland 21601.

2. Wholly-owned company which will participate in the operations, and State of incorporation: Johnson, Inc., a Maryland corportion.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28353 Filed 10-14-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 14]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 61599 (Deviation No. 18), TRAILWAYS SOUTHEASTERN LINES, INC., 1500 Jackson Street, Dallas, TX 75201. Filed September 13, 1982. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation route as follows: From Orangeburg, SC over US Hwy 301 to its junction with interstate Hwy 26, then over Interstate Hwy 26 to junction of Interstate Hwy 95, then over Interstate Hwy 95 to the junction of US Hwy 17, then over US Hwy 17 to Ridgeland, SC, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Orangeburg, SC over US Hwy 601 to Hampton, SC, then over US Hwy 278 to Ridgeland, SC, and return over the same route.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28351 Filed 10-14-82; 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 compilance. 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 irregualr routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

For the following, please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–255

Decided: October 6, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 22182 (Sub-44), filed October 1, 1982. Applicant: NU-CAR CARRIERS, INC., 950 Haverford Rd., Bryn Mawr, PA 19010. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined in Section 10923 of the Motor Carrier Act of 1980 who are engaged in business as manufacturers, distributors or dealers of transportation equipment.

MC 52793 (Sub-113), filed September 30, 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 *used household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Goldman, Sachs & Co., of New York, NY.

MC 164002, filed September 29, 1982. Applicant: CLINT BRANDT, BRANDT FARMS, INC., 711 SW Third, Wadena, MN 56482. Representative: Dennis J. Helseth, 12 Central Ave.—P.O. Box 3058, Elbow Lake, MN 56531, 218–685–5371. Transporting *chemicals and related products* (1) between ports of entry on the International Boundary line between the U.S. and Canada at points in MN and ND, on the one hand, and, on the other, points in MN and ND, and (2) between points in Richland County, ND, on the one hand, and, on the other, points in MN.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–359

Decided: October 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 110746 (Sub-6), filed September 28, 1982. Applicant: PARKS MOVING & STORAGE, INC., 740 Commonwealth Dr., Thorn Hill Industrial Park, Warrendale, PA 15086. Representative: Mark T. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA, OH, and WV, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, and WI.

MC 136876 (Sub-13), filed September 27, 1982. Applicant: THE PAULIE BRAZIER COMPANY, 1020 Buffalo Rd., P.O. Box 652, Lawrenceburg, TN 38464. Representative: Ronald O'Neal Beard, (same address as applicant), (615) 762–2326. Transporting (1) *fertilizer and fertilizer products*, (2) *Chemicals*, and (3) *agricultural commodities*, between those in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 140457 (Sub-4), filed September 27, 1982. Applicant: W. H. P. T. CO., INC., 4724 Old Rocky Mount Rd., Roanoke, VA 24014. Representative: Michael S. Ferguson, 1919 Electric Rd., SW., Roanoke, VA 24018, (703) 774–1197. Transporting (1) *clay, concrete, glass, and stone products*, between Roanoke, VA, on the one hand, and, on the other, points in WV and TN, and (2)*coal*, between points in Bell County, KY, and those in WV, on the one hand, and, on the other Covington, VA, and points in Henry County, VA, under continuing contract(s) with Weblite Corp., of Blue Ridge, VA.

MC 148326 (Sub-8), filed September 23, 1982. Applicant: THIES TRANSPORTATION, INC., P.O. Box 49, Great Bend, KS 67530. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *food and related products*, between Dallas and Ft. Worth, TX, on the hand, and, on the other, points in KS.

MC 151407 (Sub-7), filed September 30, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: D. Paul Stafford, Suite 1125 Frito Lay Tower, PO. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *marine accessories*, between points in Dade and Pinellas Counties, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151407 (Sub-8), filed September 30, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: D. Paul Stafford, Suite 1125 Frito Lay Tower, P. O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *airplane seats*, between points in Dade County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159136 (Sub-1), filed September 23, 1982. Applicant: G V & G TRANSPORTATION SERVICES, INC., 5957 S. Rutherford Ave., Chicago, IL 60638. Representative: Gilbert J. Green (same address as applicant), (312) 586–9370. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, IA, KY, MI, MO, OH, and WI.

Vol. No. OP4–360

Decided: October 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 59247 (Sub-24), filed September 28, 1982. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Rd., Linden, NJ 07036. Representative: George A. Olsen, P. O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the

U.S. (except AK and HI), under continuing contract(s) with Hubbard Hall Chemical Co., of Waterbury, CT.

MC 144897 (Sub-10), filed September 27, 1982. Applicant: SUN FREIGHTWAYS, INC., P.O. Box 5386, Lubbock, TX 79917. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (816) 763-9555. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Amarillo, TX and Albuquerque, NM, from Amarillo over US Hwy 87 to Canyon, TX, then over US Hwy 60 to Encino, NM, then over US Hwy 285 to Clines Corners, NM, then over Interstate Hwy 40 to Albuquerque, serving all intermediate routes, (2) between Amarillo, TX, and Gallup, NM; from Amarillo over Interstate Hwy 40 to Gallup, serving all intermediate points, (3) between Lubbock, TX, and Farmington, NM; from Lubbock over US Hwy 62/82 to Brownfield, TX then over US Hwy 380/82 to Plains, TX, then over US Hwy 380 to Roswell, NM, then over US Hwy 285 to its junction with Interstate Hwy 25, then over Interstate Hwy 25 to Santa Fe, NM, then over US Hwy 285 to Pojoaque, NM, then over NM Hwy 4 to San Ysidio, NM then over NM Hwy 44 to Farmington, serving all intermediate points, (4) between El Paso and Las Vegas, NM; from El Paso over US Hwy 54 to Santa Rosa, NM, then over Interstate Hwy 40 to its junction with US Hwy 84, then over US Hwy 84 to Romeroville, NM, then over Interstate Hwy 25 to Las Vegas, serving all intermediate points, (5) between El Paso, TX, and Las Vegas, NM; from El Paso over Interstate Hwy 10 to Las Cruces, NM, then over Interstate Hwy 25 to Las Vegas, serving all intermediate points, (6) between El Paso, TX, and Farmington, NM; from El Paso over Interstate Hwy 10 to Las Cruces, NM, then over Interstate Hwy 25 to Bernalillo, NM, then over NM Hwy 44 to Farmington, serving all intermediate points, (7) between El Paso, TX, and Phoenix, AZ; from El Paso over Interstate Hwy 10 to Phoenix, serving all intermediate points, and (8) between Amarillo, TX, and Phoenix, AZ; from Amarillo over Interstate Hwy 40 to Flagstaff, AZ, then over Interstate Hwy 17 to Phoenix, serving all intermediate points.

Note.—Applicant intends to tack.

MC 146456 (Sub-3), filed September 27, 1982. Applicant: HALLMARK TRUCKING, INC., P.O. Box 87, Locust Fork, AL 35097. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251-5223. Transporting *commodities in bulk*, between points in AL, AZ, AR, FL, GA, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, and TN.

MC 147546 (Sub-5), filed September 28, 1982. Applicant: DEPENDON, INC., 875 E. Rand Rd., Des Plaines, IL 60016. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Fischer Paper Products, Inc., and Roll Foil Laminating, Inc. of Antioch, IL.

MC 151767 (Sub-4), filed September 28, 1982. Applicant: BOYD F. POWERS & MICHAEL J. POWERS, d.b.a. POWERS TRUCKING CO., 52 Market St., Lock Haven, PA 17745. Representative: John Fullerton, 407 N. Front St., Harrisburg, PA 17101, (717) 236-9318. Transporting *malt beverages*, between points in PA, on the one hand, and, on the other, points in OH.

MC 154646 (Sub-14), filed September 29, 1982. Applicant: A & O ENTERPRISES, INC., d.b.a. GREATWEST TRANSPORTATION SYSTEMS, 2022 Kent Ave., Grand Island, NE 68801. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting *plastic and rubber products*, between points in NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159976, filed September 27, 1982. Applicant: SPECIALTY CARTAGE, INC., P.O. Box 431, Huntington, IN 46750. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. Transporting *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), between points in IN on and north of Interstate Hwy 70, and on and east of Interstate Hwy 65.

MC 161957, filed September 27, 1982. Applicant: EXPRESS TRANSPORTATION COMPANY, INC., P.O. Box 70611, Houston, TX 77270. Representative: Mick Graeber (same address as applicant), (713) 957-8210. Transporting *floor coverings and related products*, between points in TX, on the one hand, and, on the other, Los Angeles, CA, and points in GA, PA, NC, SC, and VA.

MC 163916, filed September 20, 1982. Applicant: BIANCO TRAVEL & TOURS, INC., 1010 S. Military, Dearborn, MI 48124. Representative: Kent Bianco (same address as applicant), (313) 563-7875. Transporting *passengers and their baggage*, in charter and special operations, beginning and ending at points in MI, and extending to points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28354 Filed 10-14-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Public Information Collection Requirements Submitted to OMB for Review

The International Development Cooperation Agency submitted the following public information collection requirement to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission may be obtained from the Agency for International Development Clearance Officer by calling (202) 632-0084. Comments regarding this information collection should be addressed to the Reports Management Officer, Ms. Melita E. Yearwood, DM/IM, Room 714, SA-12, Washington, D.C. 20523; and to the OMB reviewer listed at the end of each entry no later than October 22, 1982.

Date Submitted: October 4, 1982.

Submitting Bureau: Agency for International Development.

OMB Number: 0412-0002.

Form Number: AID 1380-9.

Type of Submission: Extension (no change).

• Title: Monthly Report of Participants Under Grant, Loan or Contract.

Purpose: This document is required to obtain information on all AID-sponsored foreign trainees in the U.S. who do not flow through the regular programming channels, but are nonetheless an important part of AID's international training program.

OMB Reviewer: David Reed (202) 395-7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: October 4, 1982.

Submitting Bureau: Agency for International Development.

OMB Number: 0412-0012.

Form Number: AID 282.

Type of Submission: Extension (no change).

• Title: Supplier's Certificate and Agreement w/AID-Invoice and Contract Abstract.

Purpose: When AID is not a party to a contract it has financed it needs some means to collect information from suppliers and a basis on which to take appropriate action against suppliers in

the event they do not comply with applicable AID requirements. This document enables AID to keep records of its commodity expenditures which are used for program management.

OMB Reviewer: David Reed (202) 395-7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: October 4, 1982.

Submitting Bureau: Agency for International Development.

OMB Number: 0412-0027.

Form Number: AID 1620-5A thru D.

Type of Submission: Extension (no change).

• Title Registry of Institutional Resources, Questionnaire.

Purpose: Document is used to maintain a roster of universities' competence in international development in order to make appropriate matches of resources with Agency needs for services.

OMB Reviewer: David Reed (202) 395-7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: October 6, 1982.

Linwood A. Rhodes,

Chief, Information Management Division.

[FR Doc. 82-28378 Filed 10-14-82; 8:45 am]

BILLING CODE 6116-01-M

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (AID) has authorized guaranties of loans to the Government of Morocco (Borrower) as part of AID's development assistance program. The proceeds of these loans amounting to Seventeen Million Dollars ($17,000,000) will be used to finance shelter projects for low income families residing in Morocco. The following is the address the Borrower and loan amount for the new project which will soon be ready to receive financing and for which the Borrower is requesting information on market conditions from U.S. lenders or investment bankers:

Morocco

Project: 608-HG-002—$17,000,000

Mr. Ahmed Dacheikh, Ministere des Finances, Direction du Tresor et des Finances Exterieures, Rabat, Morocco: Telex No. 31936M

By this notice of investment opportunity, the above Borrower is soliciting expressions of interest from U.S. lenders or investment bankers to counsel on market conditions, loan timing, structure and features, and to manage the loans or underwritings. The timing and method of lender selection, timetable for the loans and the disbursement schedule have not yet been determined. In any event, selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by AID. The lenders and AID shall enter into a Contract of Guaranty, covering each of the loans. Disbursements under the loans will be subject to certain conditions required of the Borrowers by AID as set forth in implementation agreements between AID and the Borrowers.

The full repayment of the loans will be guaranteed by AID. The AID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive and AID guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an AID guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by AID.

Information as to the eligibility of investors and other aspects of the AID housing guaranty program can be obtained from: Director, Office of Housing and Urban Development, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523; telephone (202) 632-9637.

Date: October 7, 1982.

Fredrik A. Hansen,

Deputy Director, Office of Housing and Urban Development.

[FR Doc. 82-28359 Filed 10-14-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-8]

Frye Pharmaceuticals, Inc.; Denial of Registration

On March 4, 1982, the Acting Administrator of the Drug Enforcement Administration [DEA] directed to Frye Pharmaceuticals, Inc., [Respondent], 2625 Second Avenue North, Birmingham Alabama, an Order to Show Cause proposing to deny the Respondent's pending application for renewal of its DEA registration as a manufacturer of controlled substances. Simultaneously, citing his preliminary finding of imminent danger to the public health and safety, the Acting Administrator ordered that the Respondent's DEA Certificate of Registration, PT0147238, be suspended pending a final determination in these proceedings. On March 31, 1982, Alva Strawbridge Frye requested a hearing on behalf of the Respondent firm and this matter was placed on the docket of the Honorable Francis L. Young, Administrative Law Judge. During the course of prehearing proceedings in this matter, Mrs. Frye withdrew her request for a hearing and all proceedings pending before the Administrative Law Judge were terminated. Accordingly, pursuant to the provisions Title 21, Code of Federal Regulations §§ 1301.54(d) and 1301.54(e), the Respondent has been deemed to have waived its opportunity for a hearing on all matters of law and fact involved herein. Pursuant to Title 21, Code of Federal Regulations, § 1316.57, the Acting Administrator now issues his final order in this matter, based upon the following findings of fact and conclusions of law.

The Acting Administrator finds that in 1977, the Alabama Diversion Investigation Unit, in the course of a criminal investigation of a medical practitioner, found that the physician had been purchasing unusually large quantities of controlled substances from Thera-Medic, Inc., the corporate name under which Respondent was then doing business. Subsequently, DEA compliance investigators conducted an inspection to determine whether Thera-Medic was operating its controlled substance business in accordance with the Controlled Substances Act and the regulations promulgated thereunder. The inspection revealed that the firm had failed to make, keep and maintain complete and accurate records of its controlled substance inventories and transactions; that it had failed to provide adequate physical security for controlled substances; and that it had failed to report suspicious orders of controlled substances. A civil action, based upon these violations, was brought against the Respondent in the United States District Court for the Northern District of Alabama. On August 3, 1978, Respondent was ordered to pay a civil penalty and was enjoined

from committing future violations of the Controlled Substances Act and the regulations thereunder.

In September 1980, Respondent purchased punches and dies designed to manufacture tablets bearing the marks or imprints of the products "SOPOR" and "QUAALUDE," both of which were registered trade names of Schedule II products containing methaqualone. In neither case was Respondent authorized to manufacture such drugs or to use such trade names or marks.

In July 1981, Respondent's premises were inspected by the Food and Drug Administration [FDA]. The FDA inspection revealed gross violations of FDA's Good Manufacturing Practice regulations. The inspection also revealed that Respondent had been engaged in the manufacture of "look-alike" drugs which contained non-controlled substances but which were encapsulated so as to mimic the appearance of such street-abused controlled substances as Biphetamine-20 and Ionamin. On or about September 30, 1981, United States Marshals, pursuant to a judicial order obtained by the FDA, seized about 85,000 dosage units of "look-alike" drugs, along with related manufacturing equipment, from the Respondent's premises. On October 28, 1981, the Respondent entered into a consent decree with FDA. Pursuant to the decree, Respondent was required to surrender all "look-alike" drugs in its possession and was enjoined from any further manufacture of such drugs.

On January 8, 1982, Billy R. Frye, recently deceased but at that time the president of the Respondent firm, was arrested by special agents of the DEA. Subsequently, Mr. Frye was indicted by a grand jury of the U.S. District Court for the Northern District of Alabama. The indictment charged, in six counts, that Frye had unlawfully distributed diazepam, a Schedule IV controlled substance. In the course of the investigation which led to Frye's arrest and indictment, he sold approximately 5,000 dosage units of "look-alike" Biphetamine capsules. The sale of these imitation controlled substances was a violation of the injunction entered on October 28, 1981, and contempt proceedings were instituted against Mr. Frye.

Section 303(d) of the Controlled Substances Act, 21 U.S.C. 823 (d), provides in pertinent part that a manufacturer shall be registered to manufacture controlled substances listed in Schedule III, IV, and V unless it is determined that such registration is inconsistent with the public interest. In view of the past history of the Respondent firm, as evidenced by the undisputed findings of fact set forth above, the Acting Administrator must conclude that the registration of the Respondent as a manufacturer of controlled substances would be inconsistent with the public interest.

The DEA has consistently held that persons who are registered to handle controlled substances hold a public trust. Such registrants, whether they are individuals or corporations, are expected to be trustworthy and honest, willing to abide by the Controlled Substances Act and its regulations, and dedicated to the goal of preventing the diversion of controlled substances from legitimate channels into the illicit market place. See, for example, *Commonwealth Wholesale Drug Co.*, Docket No. 77-31, 42 FR 64934 (1977); *W.F. Merchant Pharmaceutical Co., Inc.*, 47 FR 26475 (1982). Clearly, the Respondent in this case is unworthy of that public trust.

Accordingly, pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator concludes that the registration of Frye Pharmaceuticals, Inc. as a manufacturer of controlled substances would be inconsistent with the public interest and orders that the subject application for renewal of DEA Certificate of Registration PT0147238 be, and it hereby is, denied, effective immediately.

Dated: October 8, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-28381 Filed 10-14-82; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 2, 1982, Philadelphia Seed Company, Division of Stanford Seed Company, Muddy Creek Road, Lancaster County, Denver, Pennsylvania 17517, made application to the Drug Enforcement Administration to be registered as an importer of Marihuana (7360), a basic class controlled substance in Schedule I.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than November 15, 1982.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Acting Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: October 8, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 82-28382 Filed 10-14-82; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Notice of Registration

By notice dated February 18, 1982, and published in the **Federal Register** on February 25, 1982, (45 FR 82710), Lemmon Company, Cathill and Lonely Roads, P.O. Box 30, Sellersville, Pennsylvania 18960, made application to the Drug Enforcement Administration to be registered as an importer of methaqualone (2565), a basic class of controlled substance in Schedule II.

The only comments regarding this application were received from Mallinckrodt, Inc., Mallinckrodt and Second Streets, St. Louis, Missouri 63147. Mallinckrodt commented that it

has the domestic capacity to manufacture methaqualone and has offered to sell methaqualone to the Lemmon Company, assuming Mallinckrodt would be able to obtain registration to manufacture methaqualone and a sufficient aggregate production quota would be established. Mallinckrodt further commented that the aggregate production quota for methaqualone in 1981 was zero based upon the fact that (a) the sole manufacturer discontinued production of the substance, and (b) the 1980 year-end inventory was expected to exceed the need for material in 1981. The firm also commented that an agregate production quota for methaqualone was not proposed for 1982. The Acting Adminstrator has determined that these comments have no bearing on this application since Mallinckrodt is neither a registered bulk manufacturer of methaqualone nor an applicant to become registered as a bulk manufacturer of methaqualone. The Acting Administrator has further determined that the comments submitted by Mallinckrodt pertaining to methaqualone quotas are issues which the DEA would consider prior to issuing an import permit but do not directly affect the Lemmon Company's Schedule II importer application.

As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be rquired to demonstrate to the Acting Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 2 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied. The Acting Administrator has determined that the applicant currently meets these requirements and that the competition among domestic manufacturers is inadequate in that there are no domestic bulk manufacturers or applicants to become registered.

Therefore, pursuant to Section 1008(a) of the Controlled Substances Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic class of controlled substances listed above.

Dated: October 8, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 82-28383 Filed 10-14-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 27, 1982–October 1, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision were a substantial cause of the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports were not a substantial cause of worker separations at the firm.

TA-W-13,280; General Motors Corp., Chevrolet Motor Div., Central Office, Warren, MI

TA-W-13,281; General Motors Corp., Chevrolet Motor Div., Engineering Center, Warren, MI

TA-W-13,282; General Motors Corp., Central Office, Hackensack, NJ

TA-W-13,283; General Motors Corp., Central Office, Atlanta, GA

TA-W-13,284; General Motors Corp., Central Office, Pontiac, MI

TA-W-13,285; General Motors Corp., Central Office, Mesa, AZ

TA-W-13,286; General Motors Corp., Buick Motor Div., Zone Sales Office, Denver, CO

TA-W-13,287; General Motors Corp., Buick Motor Div., Zone Sales Office, Overland Park, KS

TA-W-13,288; General Motors Corp., Buick Motor Div., Zone Sales Office, No. Quincy, MA

TA-W-13,289; General Motors Corp., Buick Motor Div., Zone Sales Office, Farmington Hills, MI

TA-W-13,290; General Motors Corp., Buick Motor Div., Zone Sales Office, White Plains, NY

TA-W-13,291; General Motors Corp., Buick Motor Div., Zone Sales Office, Williamsville, NY

TA-W-13,292; General Motors Corp., Buick Motor Div., Zone Sales Office, Rocky River, OH

TA-W-13,293; General Motors Corp., Buick Motor Div., Zone Sales Office, Memphis, TN

TA-W-13,294; General Motors Corp., Buick Motor Div., Zone Sales Office, Rockville, MD

TA-W-13,295; General Motors Corp., Buick Motor Div., Zone Sales Office, Wauwatosa, WI

TA-W-13,296; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Westlake Village, CA

TA-W-13,297; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Fremont, CA

TA-W-13,298; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Jacksonville, FL

TA-W-13,299; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Oak Brook, IL

TA-W-13,300; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Overland Park, KS

TA-W-13,301; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Rockville, MD

TA-W-13,302; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Wellesley, MA

TA-W-13,303; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Edina, MN

TA-W-13,304; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Paramus, NJ

TA-W-13,305; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Wayne, PA

TA-W-13,306; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Beachwood, OH

TA-W-13,307; General Motors Corp., Cadillac Motor Div., Zone Sales Office, Beaverton, OR

TA-W-13,308; General Motors Corp., Oldsmobile Motor Div., Zone Sales Office, Fremont, CA

TA-W-13,309; General Motors Corp., Oldsmobile Motor Div., Regional and Zone Sales Office, Oak Brook, IL

TA-W-13,310; General Motors Corp., Oldsmobile Motor Div., Zone Sales Office, Overland Park, KS

TA-W-13,311; General Motors Corp., Oldsmobile Motor Div., Regional and Zone Sales Office, Southfield, MI

TA-W-13,312; General Motors Corp., Oldsmobile Motor Div., Regional and Zone Sales Office, Tarrytown, NY

TA-W-13,313; General Motors Corp., Oldsmobile Motor Div., Zone Sales Office, Williamsville, NY

TA-W-13,314; General Motors Corp., Oldsmobile Motor Div., Zone Sales Office, Charlotte, NC

TA-W-13,315; General Motors Corp., Oldsmobile Motor Div., Regional and Zone Sales Office, Irving, TX

TA-W-13,316; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Westlake Village, CA
TA-W-13,317; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Atlanta, GA
TA-W-13,318; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Overland Park, KS
TA-W-13,319; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Rockville, MD
TA-W-13,320; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Wellesley, MA
TA-W-13,321; General Motors Corp., Pontiac Motor Div., Zone Sales Office, St. Louis, MO
TA-W-13,322; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Charlotte, NC
TA-W-13,323; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Cleveland, OH
TA-W-13,324; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Oklahoma City, OK
TA-W-13,325; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Memphis, TN
TA-W-13,326; General Motors Corp., Pontiac Motor Div., Zone Sales Office, Brookfield, WI

I hereby certify that the aforementioned determinations were issued during the period September 27, 1982–October 1, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, during normal business hours or will be mailed to persons who write to the above address.

Dated: October 5, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-28418 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-27-M]

Cominco American, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cominco American, Incorporated, P.O. Box 638, Garrison, Montana 59371 has filed a petition to modify the application of 30 CFR 57.19-22 (hoist rope requirements) to its Warm Spring Mine (I.D. No. 24-00146) located in Powell County, Montana. The petiton is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. The petition concerns the requirement that the end of the rope at the drum make at least one full turn on a drum shaft, or a spoke of the drum in the case of a free drum, and be fastened securely by means of rope clips or clamps.

2. As an alternative method, petitioner proposes to secure the end of the rope with two set screws to the drum and then have one full layer of rope on the drum and part of a second layer on top of that when the rope is extended to its maximum working length. This represents 38 full turns of rope on the drum for the first layer and 29 full turns in the second layer.

3. Petitioner states that this method provides the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 15, 1982. Copies of the petition are available for inspection at that address.

Dated: October 6, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-28419 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-170; Exemption Application No. D-3281]

Exemption From the Prohibitions for Certain Transactions Involving the American Shopping Centers, Inc. Defined Benefit Pension Trust Located in Utica, New York

AGENCY: Labor Department.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The past purchase of a certain mortgage (the Mortgage) by the American Shopping Centers, Inc. Defined Benefit Pension Trust (the Plan) from Judson Leve (Leve), a disqualified person with respect to the Plan; (2) the extension of credit (the Note) by Leve to the Plan in such transaction; and (3) the personal guarantee of the Mortgage payments by Leve.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 13, 1982, notice was published in the **Federal Register** (47 FR 35370) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or adminstrative exemptions

and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The past purchase of the Mortgage by the Plan from Leve; (2) the Note given to Leve in such purchase provided that the terms and conditions of the Mortgage and the Note were and are at least equal to those which the Plan could have received in an arm's length transaction; and (3) the personal guarantee of the Mortgage payments by Leve.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consumated pursuant to this exemption.

Signed at Washington, D.C., this 8th day of October 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-28450 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3581]

Proposed Exemption for Certain Transactions Involving the Backer and Probst, Inc., Employees Profit Sharing Plan, Located in St. Louis, Missouri

AGENCY: Labor Department.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of an improved parcel of real property by the Backer and Probst, Inc. Employees Profit Sharing Plan (the Plan) to Drs. Matt H. Backer, Jr. (Dr. Backer) and Raymond E. Probst (Dr. Probst), parties in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan, Dr. Backer, Dr. Probst, and any other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 24, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3581. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 5 participants. As of June 30, 1981, the Plan had net assets of $779,908. The Plan sponsor is Backer and Probst, Inc. (the Employer), a corporation engaged in the practice of medicine. Drs. Backer and Probst are employees of the Employer, and Dr. Backer serves as its president. Since June, 1975, Mr. Joseph Becker, an attorney for the Employer, has served as the trustee of the Plan.

2. On June 28, 1974, the Employer sold a .64 acre of improved real property (the Property) to the Plan for $135,000. The Property is located at 10345 Watson Road, St. Louis, Missouri, and consists of lots 18, 19, 20, and 21 of a subdivision known as "the Hub," and a parcel of land between lots 17 and 18 of the Hub. On June 29, 1974, the Plan leased back lots 19, 20, and 21 of the Property to the Employer for a term of 5 years at an annual rental of $24,000 (the 1974 Lease). This portion of the Property contains the office facility of the Employer. The 1974 Lease provided, inter alia, that the Employer, as lessee, had an option to renew the lease for a 5 year term. Mr. Charles Biscan, an attorney for the Employer, served as the trustee of the Plan at this time. On June 15, 1978, the Plan and the Employer entered into a contract amending the 1974 Lease whereby the monthly rental was increased to $2,500 per month commencing on July 1, 1978, and the Employer was given an option to renew the lease for an additional five years beginning on July 1, 1984. By letter dated January 16, 1981, the Department's Area Administrator, St. Louis, Missouri, informed the applicant that the transitional relief afforded the 1974 Lease by section 414(c)(2) of the Act was negated by the June 15, 1978, lease modification agreement.

3. On June 30, 1975, the Plan leased to the Employer lot 18 and the parcel of land between lots 17 and 18. Since that time, the Employer has constructed an improvement which serves as an addition to its principal office facility. The applicant recognizes that the lease of this portion of the Property also constitutes a prohibited lease between the Plan and a party in interest.

4. At the request of the Internal Revenue Service (the Service), the Employer has filed with the Service Forms 5330 for the years ending June 30, 1976, through June 30, 1982, and has paid the applicable excise taxes with respect to the past leases. Pursuant to the request of the Service, the Employer executed a document entitled

"Termination of Lease" on December 28, 1981, whereby it acknowledged that the existing leases would terminate on June 30, 1984, and thereby released any option rights which would have extended the leases beyond that date. The applicant represents that the Service has not indicated that any additional excise taxes are due from the Employer, and has therefore closed its case with regard to the matter. The applicant represents that if the Service determines that additional excise taxes are due, the Employer will pay such taxes.

5. The applicant seeks an exemption to allow the Plan to sell the Property to Drs. Backer and Probst for its appraised fair market value. Drs. Backer and Probst will each maintain an equal ½ ownership interest in the Property after its sale. Mr. Robert S. Achtyl, an independent appraiser located in St. Louis, Missouri, has determined that the Property, as of February 18, 1982, had a fair market value of $205,000. The sale will be for cash and the Plan will not incur any sales commissions with respect to the transaction. The sale of the Property will enable the Plan to disengage from prohibited leases as described in the Act and the Code without the incurrence of any expenses or commissions.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the Property will be sold at a gain at its appraised fair market value; (b) the sale will be a one-time transaction for cash; (c) the Plan will not incur any expenses with respect to the sale; and (d) the Plan trustee has determined that the transaction is appropriate for the Plan.

Notice to Interested Persons

Within 7 days after publication of this notice of pendency in the **Federal Register**, notice will be hand delivered to all participants and beneficiaries of the Plan. Such notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and will inform each recipient of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of the Property by the Plan to Drs. Backer and Probst for $205,000, provided that this amount is not less than the fair market value of the Property on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 8th day of October 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-28451 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3427]

Proposed Exemption for Certain Transactions Involving the Cattlemens Profit Sharing Plan, Located in Santa Rosa, California

AGENCY: Labor Department.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan (the Loan) by the Cattlemens Profit Sharing Plan (the Plan) of an amount equal to the lesser of $300,000 or 30 percent of the Plan's assets, at the time the Loan is made, to Cattlemens (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the trustees, the Employer and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 29, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and

Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3427. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department of Labor, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a corporation engaged in the construction, ownership and operation of steak restaurants which are diversified geographically in the States of California and Nevada. The Employer maintains its principal place of business at 3704 Montgomery Drive, Santa Rosa, California.

2. The Plan is a defined contribution plan with 230 participants and total assets of $934,408 as of August 31, 1981. The Plan is administered by four trustees who, in addition to performing administrative duties, are responsible for making investment decisions for the Plan.

3. The Plan proposes to lend the Employer an amount equal to the lesser of $300,000 or 30 percent of the Plan's assets at the time the Loan is made. The Employer intends to use the Loan proceeds to finance the construction of a new restaurant located in Selma, California. The Loan will be evidenced by a promissory note providing for the repayment of the indebtedness in 120 equal monthly installments of principal and interest. The Loan will carry a fixed annual interest of 17 percent. In addition, the Plan will charge the Employer a loan fee equal to 2½ percent of the amount of the Loan.

4. The Loan will be secured by a duly recorded second deed of trust and an assignment of rents on the Employer's fee simple interest in certain real property (the Real Property) located in the northeast corner of U.S. Highway 395 and Jay Lake Road in Washoe Valley, Washoe County, Nevada. The principal balance outstanding on the first deed of trust (the Initial Loan) is $101,000; the original amount of the loan was $175,000.

5. The Real Property consists of a restaurant, lounge, single family residence, paved parking lot and various outbuildings on a lot containing approximately 5.2 acres. The Real Property has an appraised value of $865,000 according to an October 5, 1981 appraisal report prepared by Messrs. Robert H. Alves and Robert H. Fabri, independent appraisers affiliated with the firm Alves Appraisal Associates of Reno, Nevada. The Employer represents it will provide additional or substitute collateral at any time during the term of the Loan if the value of the Real Property falls below 150 percent of the combined outstanding balance of the Initial Loan and the proposed Loan. In addition, the Employer will insure the Real Property at its own expense and designate the Plan as the beneficiary of the insurance policy.

6. Mr. James B. Keegan, Sr. (Mr. Keegan), a retired mortgage banker and presently, a real estate specialist with Keegan and Coppin, Inc. of Santa Rosa, California, has certified in a letter dated April 26, 1982 that the terms and conditions of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party. Mr. Keegan states that interest rates for similar loans are in the range of 17 percent to 18 percent; the loans are amortized in monthly payments on the basis of 20 years; and the loan terms provide that principal and interest will become due in 5 years. He says that the average loan fee charged for these loans is 2½ percent of the principal amount. Alternatively, Mr. Keegan indicates some commercial lenders will make a 10 year fully amortized loan with variable interest rates (adjusted up or down from a base of 17 percent) and charge a loan fee of 2½ percent of the principal amount.

7. R. A. Rigg and Company (Rigg), of San Francisco, California has been appointed the independent fiduciary for the Loan. Rigg is an investment adviser and broker-dealer registered with the U.S. Securities and Exchange Commission. With the exception of serving as the Plan's investment adviser, Rigg has no other commercial relationship to either the Employer or the Plan.

By letter dated February 12, 1982, Rigg has approved the terms of the proposed transaction and believes they are in the best interests of the participants and beneficiaries of the Plan. In the course of determining the suitability of the Loan, Rigg has reviewed the Plan's investment portfolio, considered the Plan's cash flow requirements, including the potential distribution to its participants; considered the diversification of the Plan's assets in light of the Loan investment; and considered the Loan relative to the Plan's overall investment policy. In addition to the proposed Loan which would constitute 30 percent of the Plan's total assets at the time of making, Rigg notes that the Plan holds 200 shares of Employer common stock (valued at $159,908 and comprising 17 percent of the Plan's assets) and has made other loans (totaling $80,520, and representing 8 percent of the Plan's assets) to certain participants pursuant to the terms of the Plan.[1] Rigg does not consider the Employer's apparently substantial involvement with the Plan's assets to be a matter of concern because of several mitigating factors: (a) The Loan will be amortized monthly; (b) Employer contributions to the Plan combined with income accretion will reduce the degree of concentration in ensuing years; and (c) there is an excellent collateral to loan ratio in addition to the Employer's financial strength and earning power.

8. The Loan will be monitored by Wells Fargo Bank (Wells Fargo) of Santa Rosa, California. Wells Fargo maintains a negligible commercial relationship with the Employer. In addition, no officer of the Employer serves as an official of the bank. Among its duties, Wells Fargo will enforce the terms and conditions of the promissory note and second deed of trust, including

[1] The application indicates that participant loans totaled $103,934 as of August 31, 1982. In this proposed exemption the Department expresses no opinion as to whether the participant loans satisfy the requirements of section 408(b)(1) of the Act, or whether the acquisition or holding of Employer stock satisfies the requirements of section 407.

making demand for timely payment and bringing suit against the Employer in the event of a material default. Wells Fargo will keep accurate records and report at least annually to the Plan trustees regarding the administration of the Loan. Such records will include annual independent appraisal updates ascertaining whether or not the value of the Real Property pledged as collateral is at least 150 percent of the combined outstanding balance of the Initial Loan and the proposed Loan. If the appraised value of the Real Property falls below the stated percentage, Wells Fargo will direct the Employer to provide additional or substitute collateral. In addition, the Plan and Employer will provide Wells Fargo with all information Wells Fargo deems necessary. Wells Fargo will be paid reasonable expenses, including legal and appraisal costs by the Employer.

9. In summary, it is represented that the propsed transaction meets the statutory criteria of section 408(a) of the Act because: (a) The Loan will be secured by a second deed of trust on Real Property worth in excess of 200 percent of the amount of the Initial Loan and the proposed Loan; (b) the Employer will insure the Real Property and pledge additional or substitute collateral if the value of the Collateral is below 150 percent of the combined outstanding balance of the Initial Loan and the proposed Loan; (c) the Loan has been approved by Rigg, the independent fiduciary, who believes the terms are appropriate and suitable for the Plan and its participants and beneficiaries; and (d) the Loan will be administered by Wells Fargo who will take all actions necessary to enforce and protect the interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be given to all present participants of the Plan, to those former participants of the Plan having vested interests and to all beneficiaries, within ten working days of the publication of the notice pendency in the **Federal Register**. The notice will include a copy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Notice will be provided to interested parties by mail, personal delivery or by posting in the Employer's locations where participants work and which are customarily used for giving notice to employees.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Loan by the Plan to the Employer of an amount equal to the lesser of $300,000 or 30 percent of the assets of the Plan at the time the Loan is made, provided the terms of the Loan are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 8th day of October 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-28452 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3564]

Notice of Proposed Exemption for Certain Transactions Involving A.B. Dick Products Company of Waterloo Profit Sharing Plan and Trust Located in Waterloo, Iowa

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt: (1) the

proposed purchase by the A.B. Dick Products Company of Waterloo Employees Profit Sharing Plan and Trust Agreement (the Plan) of certain leases of equipment (the Leases) from A.B. Dick Products Company of Waterloo (the Employer); and (2) the agreement by the Employer to indemnify the Plan against any loss relating to the Leases and also to repurchase Leases that are in default. The proposed exemption, if granted, would affect the Employer and the Plan and its participants and beneficiaries.

DATE: Written comments and requests for a public hearing must be received by the Department on or before November 15, 1982.

ADDRESS: All writen comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3564. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution plan with seven participants and $3,000 in net Plan assets as of March 31, 1982. The Plan trustee (the Trustee) is the National Bank of Waterloo, which will have the sole and exclusive authority to act on the Plan's behalf with regard to the transactions discussed herein. The Employer currently has a $250,000 line of credit available from the Trustee, which constitutes less than three-tenths of one percent of the Trustee's commercial loan business.

2. The Employer is in the business of selling and leasing duplicating equipment and high speed typewriters. The Leases that the Plan proposes to purchase from the Employer will involve Employer equipment which is leased to third parties. These Leases vary in length from 12 to 60 months, depending on the cost of the equipment, and will be sold to the Plan for cash. The Plan proposes to invest, for a five-year period, up to 50 percent of Plan assets in such Leases, with the condition than no more than 10 percent of Plan assets be invested in the Leases of any one customer. The Leases are completely net to the Plan and similar Employer leases have recently been yielding a net return of more than 24 percent per annum.

3. The purchase price of a Lease will be based upon the retail price of the equipment being leased. No commissions will be paid to the Employer as a result of sales of Leases to the Plan. The rental for the Leases purchased by the Plan will be calculated by the same method used to calculate the rental for the Employer's leases. Rentals will be comparable to what the Plan could obtain in a direct transaction with an unrelated third party.

4. The subject property of each Lease will be secured by a perfected security interest which will name the Plan as the secured party. If the security would be foreclosed upon in the event of default, the value and liquidity of the security will be such that it may reasonably be anticipated that loss of principal or interest will not result. In addition, the lessee is required to maintain insurance on the equipment against fire and other hazards, the proceeds of which shall be assigned to the Plan.

5. The Plan will assume the position of lessor under the terms of the Leases. However, if a default would occur, the Plan would have full recourse against the Employer and the Employer has agreed to repurchase any Lease defaulted upon at the purchase option price calculated pursuant to the terms of the Lease, and also to indemnify the Plan for any loss suffered. Leases shall be deemed to be in default if the lessee fails to make a rental payment within five days after it is due. The Employer's net worth as of March 31, 1982 was $55,700.

6. The Trustee will purchase on the Plan's behalf only "top quality" Leases, that is, Leases with companies having top credit ratings, good prior leasing experience and those Leases with state or local governmental agencies or institutions. The Trustee will review all credit applications prior to any purchase of a Lease. The Trustee will review the lessee's financial condition, contact his credit references and make a determination regarding appropriate credit limits. The Trustee will also monitor the Leases and the implementation of the Employer's agreement to indemnify the Plan against loss in the event of default.

7. At the end of the initial Lease term, the lessee has three options, with the following consequences to the Plan: (a) the customer may renew the Lease with the Plan's rights and obligations remaining the same as during the initial term; (b) the customer may purchase the equipment at the purchase option price, in which case the Plan would receive the proceeds; and (c) the customer may choose not to renew the Lease or purchase the equipment, in which case the Employer would purchase the equipment from the Plan at the purchase option price.

8. In summary, the applicant represents that the proposed transactions meet the requirements of section 408(a) of the Act due to the following: (a) the Trustee will have the sole and exclusive authority to select, purchase and monitor the Leases and also to monitor the Employer's indemnification and repurchase agreement; (b) the sales of Leases will be limited to a five-year period and no more than ten percent of Plan assets will be invested in the Leases of any one customer; (c) the Plan will have a perfected security interest in each piece of equipment subject to a Lease; and (d) the Employer will indemnify the Plan for any loss suffered by the Plan as a result of a Lease default and will repurchase such Lease at the Lease purchase option price.

Notice to Interested Parties

Notice of the proposed exemption will be given to all participants and beneficiaries within 15 days of the date it is proposed in the **Federal Register.** The notice will be hand-delivered to participants currently employed by the Employer and mailed to beneficiaries and vested participants not currently

employed by the Employer. The notice will include a copy of the proposed exemption and will inform each recipient of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of five years from the date of the exemption grant, to the purchase of the Leases by the Plan and the repurchase of Leases and the indemnification of the Plan by the Employer in accordance with paragraph (D) below, provided that the following conditions are met:

A. Upon request by the Department, the Trustee or other appropriate fiduciaries of the Plan shall submit to the Department such additional information regarding transactions subject to this exemption as may be requested. All requests for additional information shall be in writing;

B. Any sale of Leases to the Plan will be on terms at least as favorable to the Plan as an arm's-length transaction with an unrelated third party would be;

C. The acquisition of a Lease from the Employer shall not cause the Plan to hold: (1) more than 50 percent of Plan assets in Leases; and (2) more than 10 percent of Plan assets in Leases of any one lessee;

D. Upon default by the lessee on any payment due under a Lease, the Employer agrees to indemnify the Plan against any loss resulting from such default and also agrees to repurchase such Lease at the Lease purchase option price. A Lease shall be deemed to be in default for the purposes of this section, if: (1) a payment due under the terms and conditions of the Lease is past due for a period of 5 days; (2) a lessee defaults in the performance of any other term or condition of the Lease for a period of 5 days; or (3) the lessee ceases doing business or becomes insolvent;

E. The Plan receives adequate security for the property underlying the Lease. For purposes of this exemption, the term adequate security means that the property is secured by a perfected security interest in the property leased, so that if there is a default on the Lease and the security is foreclosed upon or otherwise disposed of, the value and liquidity of the security is such that it may reasonably be anticipated that the Plan will experience no loss; and

F. Insurance against loss or damage to the leased property from fire or other hazards will be procured and maintained by the lessee, and the proceeds from such insurance will be assigned to the Plan.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in this application are true and complete, and that the application accurately described all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of October 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28135 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-166; Exemption Application No. D-3436]

Exemption From the Prohibitions for Certain Transactions Involving Bank of America Located in San Francisco, California

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the use of assets of multiemployer pension plans (the Plans) for permanent loans to borrowers (the Borrowers) who will use the loan proceeds to pay off construction loans originated by Bank of America (the Bank), which serves as corporate trustee or co-trustee for such Plans.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982 notice was published in the **Federal Register** (47 FR 34217) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of

1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. No public comments were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the use of the assets of the Plans for permanent mortgage loans to the Borrowers, who will use the loan proceeds to pay off construction loans originated by the Bank.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28126 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-25-M

[Prohibited Transaction Exemption 82-167; Exemption Application No. D-3504]

Exemption From the Prohibitions for Certain Transactions Involving the Employees' Profit Sharing and Retirement Plan of Burns Bros. Contractors, Inc., Burns Bros. Manufacturing Co., Inc., and John Weekes & Son Co., Located in Syracuse, New York

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit (1) the proposed loan of funds (the Loan) by the Employees' Profit-Sharing and Retirement Plan of Burns Bros. Contractors, Inc., Burns Bros. Manufacturing Co., Inc. and John Weekes & Son Company (the Plan) to 717 Spencer Street Associates (the Partnership); and (2) other transactions to be executed in accordance with the terms of the Loan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34245) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the provisions of the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a

plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the Loan of $200,000 by the Plan to the Partnership; and (2) other transactions to be executed in accordance with the terms of the Loan, as described in the notice of pendency; provided that the Loan and the other transactions are not less favorable to the Plan than those obtainable in arm's-length transactions with an unrelated third party at the time of the consummation of the transactions.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of October 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28127 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3511 and D-3512]

Notice of Proposed Exemption for Certain Transactions Involving the Harry L. Ryburn, D.D.S., P.A. Money Purchase Plan Located in Pine Bluff, Arkansas

AGENCY: Pension and Welfare Benefit Programs Office Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed purchase of land by the Harry L. Ryburn, D.D.S., P.A Money Purchase Plan (the Plant) from the Bayou Ridge Partnership (the Partnership) in which a 1/3 interest is held by a company owned by the owner of the sponsor of the Plan. The proposed exemption, if granted, would affect the Partnership, Harry L. Ryburn, D.D.S. (Dr. Ryburn); Harry L. Ryburn, D.D.S., P.A. (the Employer); Simmons First National Bank of Pine Bluff (Lender 1); Action Service Corporation (Lender 2); Messrs. David Breshears and Sam Cheesman; HLR Enterprises, Inc. (the Company); National Bank of Commerce of Pine Bluff (the Bank); and the participants and beneficiaries of the Plan.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 22, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-3511 and D-3512. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department of Labor, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406d(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Company, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application of file with the Department for the complete representations of the applicant.

1. As of December 4, 1981, the Plan covered six participants. As of July 15, 1982, the Plan's total assets exceeded $873,000 and were held in liquid forms except for $79,386.00 invested in real estate. The Employer is an Arkansas professional corporation owned solely by Dr. Ryburn, who is also an employee and the administrator of the Plan. Lender 1 is the trustee of the Plan.

2. The Partnership is an Arkansas general partnership whose business is the development of land. The Company owns a ⅓ interest in the Partnership and Lender 2 owns the remaining ⅔ interest. The Company is an Arkansas corporation whose primary business is investments. It is owned 68% by Dr. Ryburn and 32% by trusts whose beneficiaries are his children. Lender 2 is an Arkansas corporation wholly

owned by Messrs. David Breshears and Sam Cheesman, who are not directly or indirectly related to the Employer, Dr. Ryburn, or the Company.

3. The land in question is a subdivided tract of land located within the city limits of Pine Bluff, Arkansas (in Jefferson County) and known as Bayou Ridge Addition. Bayou Ridge Addition originally consisted of 42 lots of various size, most lots being 80' x 160'. The lots have all underground utilities, including sanitary sewer, water, electricity, and gas. There are paved streets, curbs, and gutters. Although legal title to Bayou Ridge Addition is in the name of the Company and Lender 2, the property is maintained on the books of the Partnership. Under Arkansas law, Bayou Ridge Addition is considered the Partnership's property, according to counsel for the applicant. On May 31, 1978, the Partnership acquired Bayou Ridge Addition in bulk for a total purchase price of $95,000 from Mr. R. Stanley Clark, a totally unrelated party. The Partnership borrowed a total of $199,561.11 from Lender 1 and $10,000 from Lender 2, all of which were applied toward improvements on the property. The Partnership has paid approximately $50,000 in interest on the unpaid balance of the purchase price to Mr. Clark and on the loan from Lender 1. No interest has been charged by Lender 2. The land was developed and ready for sale on April 1, 1980. From April 28, 1980 to December 30, 1981, the Partnership sold seven lots to unrelated parties at prices ranging from $11,200 to $12,000 per lot for a total return to the Partnership of $81,100. Thus, the Partnership's unrecovered cost in Bayou Ridge Addition is approximately $273,461 ($95,000 purchase price + $199,561 improvement loans from Lender 1 + $10,000 improvement loan from Lender 2 + approximately $50,000 interest paid to Mr. Clark and to Lender 1 − $81,100 proceeds of sales of seven lots = $273,461 approximate unrecovered cost).

4. The Partnership proposes to sell the remaining 35 lots (the Property) in Bayou Ridge Addition to the Plan for a total purchase price of $210,000 ($6,000 per lot), payable in cash at closing. All indebtednesses will be paid by the Partnership and good merchantable title will be given to the Plan at the time of conveyance. The Partnership is willing to take a loss (of approximately $63,461) as a result of the proposed purchase in order to eliminate its continuing debt obligations on Bayou Ridge Addition. Mr. Kenneth E. Glover, an independent realtor, has appraised the fair market value of the Property as of October 28, 1981, at $420,000 or $12,000 per lot. Mr. Glover states that the Property is one of the nicest subdivisions in Pine Bluff and is located close to schools, shopping centers, churches, hospital, and a country club with an excellent golf course. The applicant states that Mr. Glover has been in the real estate business in the Pine Bluff/Jefferson County area for many years and is widely recognized as knowledgeable in matters of valuation. The Employer will pay all expenses incurred in purchasing the Property from the Partnership. The Plan intends to utilize the services of independent real-estate agents to sell the individual lots after the Plan purchases the Property. The applicant states that since all of the improvements have been made to the Property, there will be no administrative problems that would normally relate to making such improvements.

5. The Bank has reviewed the proposed purchase, Mr. Glover's appraisal, and an analysis obtained by the Bank from Buckner Realty and Insurance Co., Inc. (Buckner) of the profitability of the proposed purchase. Buckner's report, dated April 6, 1982, does not appraise the Property but concludes that the proposed purchase price seems reasonable in terms of value when allowing for negotiations between knowledgeable buyers and sellers. Buckner's report estimates a sell-out period of three to five years for the 35 lots comprising the Property, assuming some improvement in market conditions in the next few years. Mr. James C. Buckner, who is not related to Dr. Ryburn, the Employer, the Company, the Partnership, Lender 1, or Lender 2, signed Buckner's report.

Based on the Property's location, the planning and appearance of its lots and their improvement by streets and utilities, the Bank concludes that the proposed purchase price for the Property is a fair and reasonable amount. The Bank has also analyzed the proposed transaction in view of the fact that there is some potential for the Plan to be required to pay unrelated business income taxes on the profits derived from the sale of the lots. Based upon the anticipated net return realizable by the Plan on the proposed investment ($101,634 − $121,914 after subtracting estimated unrelated business income taxes), the Bank believes that even if the sale of the lots is subject to such taxes, the proposed investment is an appropriate investment for the Plan and is in the best interests of the Plan and its participants.

The Bank states that it is prepared to assume fiduciary responsibility for recommending the purchase; that its Trust Department handles a substantial number of employee benefit accounts, many of which include real estate; and that it feels qualified to judge the feasibility of real estate purchases. According to representations submitted the only relationships between the Bank and the parties involved in the proposed transaction are: (1) of the 200,078 shares of outstanding stock of the Bank, Dr. Ryburn owns 36 and the owners of Lender 2 own 110; (2) a trust benefiting the children of the owners of Lender 2 has borrowed $16,189 from the Bank, which loan has been properly collateralized and is guaranteed by said owners; (3) the Bank's total deposits of approximately $140,000,000 include checking accounts totalling $6,660 upon which the owners of Lender 2 may draw; and (4) the Bank serves as trustee of a retirement plan for employees of Animal Clinic, Inc., which is owned by the owners of Lender 2.

6. In summary, the applicant represents that the proposed purchase will meet the criteria for an exemption provided by section 408(a) of the Act because: (a) National Bank of Commerce of Pine Bluff, as fiduciary of the Plan, believes that the proposed purchase is an appropriate investment for the Plan and is in the best interests of the Plan and its participants, and will assume fiduciary responsibility to the Plan for recommending the purchase; (b) the proposed purchase price is half the fair market value of the Property, as estimated by an independent appraiser; (c) the proposed purchase will be a one-time transaction; (d) the amount of the proposed purchase price is approximately 24% of the fair market value of the total assets of the Plan; and (e) none of the expenses incurred in purchasing the Property will be charged to the Plan.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Within 5 days of the date this notice of proposed exemption is published in the **Federal Register**, the applicant will notify all participants and beneficiaries

of the Plan of the pendency of this application for exemption. The notice will contain a copy of the notice published in the **Federal Register** and a supplemental statement advising interested persons of their rights to comment and/or request that a hearing be held with respect to the proposed exemption. The notice will be personally delivered to the interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c) (2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a) (1) (B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the purchase of the Property by the Plan from the Partnership for $210,000 cash payable at closing, provided such amount does not exceed the fair market value of the Property on that date.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28131 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-162; Exemption Application No. D-2934]

Exemption From the Prohibitions for Certain Transactions Involving the Knoxville Surgical Group Profit Sharing Plan and the Knoxville Surgical Group Pension Plan Located in Knoxville, Tennessee

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits: (1) the sale of a building (the Property) to the Knoxville Surgical Group Profit Sharing Plan (the Profit Sharing Plan) and the Knoxville Surgical Group Pension Plan (the Pension Plan, collectively, the Plans) by a partnership (the Partnership), which is a party in interest with respect to the Plans, (2) the (the Lease) of the Property by the Plans to Knoxville Surgical Group, P.C. (the Employer), the sponsor of the Plans; and (3) certain guarantees to the Plans with respect to the Property made by the Employer and individually by the principal shareholders of the Employer (the Principals).

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31479) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notice to interested persons as set forth in the notice. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the sale of the Property by the Partnership to the Plans for the cash sum of $240,000, provided this price is not greater than the fair market value of the Property at the time of the sale; (2) the Lease of the Property by the Plans to the Employer, provided the terms and conditions of the Lease are at least as favorable to the Plan as those which the Plans could obtain in a similar transaction with an unrelated party; and (3) certain guarantees to the Plans by the Principals and the Employer with respect to the Property.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C, this 5th day of October.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28127 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-163; Exemption Application No. D-3200]

Exemption From the Prohibitions for Certain Transactions Involving, the Mavor-Kelly Company Profit Sharing Plan Located in Houston, Texas

AGENCY: Pension and Welfare Benefit Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This temporary exemption exempts, for a period of five years, the proposed loans (the Loans) by the individually directed accounts of Mr. A. C. Flory (Flory) and Mr. H. K. Hynes (Hynes) in the Mavor-Kelly Company Profit Sharing Plan (the Plan) to the Mavor-Kelly Company (the Employer), the Plan sponsor.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 13, 1982, notice was published in the **Federal Register** (47 FR 35878) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code,

including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed Loans to the Employer by the individually directed accounts of Flory and Hynes in the Plan, provided that the terms and conditions of the Loans are not less favorable than those obtainable by the Plan in a similar transaction with an unrelated third party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28123 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-169; Exemption Application No. D-3517]

Exemption From the Prohibitions for Certain Transactions Involving the McDonald, Hopkins & Hardy Co., L.P.A. Defined Benefit Pension Plan and Trust, Located in Cleveland, Ohio

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the proposed loan of $100,000 (the Loan) by the McDonald, Hopkins & Hardy Co., L.P.A. Defined Benefit Pension Plan and Trust (the Plan) to McDonald, Hopkins & Hardy Co., L.P.A. (the Employer) the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34230) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in compliance with the provisions set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority if the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or here duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Loan by the Plan to the Employer provided that the terms and conditions of the Loan are no less favorable to the Plan than those which it could obtain in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations

contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of October 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28129 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-165; Exemption Application No. D-3387]

Exemption from the Prohibitions for Certain Transactions Involving the Moriarity, Mikkelborg, Broz, Wells & Fryer Self-Employed Retirement Plan Located in Seattle, Washington

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit the loan of funds by the Moriarity, Mikkelborg, Broz, Wells & Fryer Self-Employed Retirement Plan (the Plan) to Moriarity, Mikkelborg, Broz, Well & Fryer (the Employer), the Plan sponsor; and (2) the personal guarantees of the Employer's obligations under the loans by the nine partners of the Employer (the Partners). The Partners are owner-employees with respect to the Planb as defined in section 401(c)(3) of the Internal Revenue Code of 1954 (the Code), and the loan of funds to the Employer would constitute a loan to the Partners. Section 408(d)(1) of Title I of the Employee Retirement Income Security Act of 1974 (the Act) provides that the Department of Labor (the Department) lacks authority to grant an exemption under section 408(a) of the Act for the loan of funds by a plan to an owner-employee. Therefore the Department cannot grant an exemption under Title I for the transactions. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code. The applicant recognizes that the exemptive relief granted herein would not apply to prohibited transactions described in Title I of the Act.

TEMPORARY NATURE OF EXEMPTION: The exemption will be temporary in nature and will expire 5 years after the date of grant with respect to origination of any loan. The exemption will expire 12 years after the date of grant with respect to the Plan's holding of any loan, provided such loan originated in the initial 5 year period.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34252) of the pendency before the Department of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and respresentations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was provided to interested persons in accordance with the provisions of the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective december 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the Loans, as such term is described in the notice of pendency, provided that the terms and conditions of the Loans are not less favorable to the Plan than those obtainable in arm's-length transactions with an unrelated party; and (2) the personal guarantees of the Employer's obligations with respect to the Loans by the Partners.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-281 5 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. L-3350]

Notice of Proposed Exemption for a Certain Transaction Involving the National Production Workers Insurance Fund Located in Chicago, Illinois

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the purchase by the National Production Workers Insurance Fund (the Fund) of computer and office equipment from Labor Benefit Services (Labor Services), a party in interest with respect to the Fund. The proposed exemption, if granted, would affect the Fund, Labor Services and others participating in the transaction.

DATE: Written comments must be received by the Department of Labor on or before December 1, 1982.

EFFECTIVE DATE: This exemption, if granted, will be effective April 16, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. L-3350. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act. The proposed exemption was requested in an application filed on behalf of the Fund, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Fund is a Taft-Hartley trust fund which provides health and welfare benefits to approximately 3,200 participants who are members of the National Production Workers Union (the Union). The Fund was formed on September 1, 1955.

2. The Fund provides health insurance benefits for its participants. Benefits are self-insured and the administrative services required for the administration of the Fund are provided under a contract with Labor Services which has been in effect since 1978, when the Fund became self-insured.

3. Labor Services has developed a computer program which allows for the processing of claims with a minimum usage of personnel. As such, that program, in combination with the computer hardware equipment possessed by Labor Services, has been developed to the extent that the claims processing is now done in the majority by the computer system. The trustees of the Fund (the Trustees) have determined that if they obtain the computer program software in combination with the hardware system capable of operating that software, they could self-administer the claims and eliminate the need for a third-party consultant, thus saving several thousands of dollars per month in administration costs.

4. The Trustees wish to purchase the computer hardware and software processing equipment (the Computer Equipment) from Labor Services. The proposed purchase price is $125,000.00 This purchase will be made pursuant to a Termination/Purchase Agreement which provides for the termination of services now provided to the Fund by Labor Services and for the acquisition of the Computer Equipment as well as several miscellaneous assets of Labor Services by the Fund. The miscellaneous assets include desks, work tables, dictation equipment, typewriters, file cabinets, desk and executive chairs, calculators, and file trays. On April 16, 1982, the Fund made a $50,000 down payment toward the purchase price of the Computer Equipment.

5. The proposed purchase price of $125,000 has been determined based upon independent appraisals of the Computer Equipment. The computer hardware and software were appraised separately.

6. Systemhouse, Inc. has determined that the fair market value of the computer hardware is $36,000.

7. COMSI, Inc. has established the value of the computer software to be $116,900 and Systemhouse, Inc. has determined that the value of the computer software is $121,900.

8. Thus, the value of the Computer Equipment based upon the independent appraisals is between $152,900 and $157,900. Therefore, the proposed purchase price of $125,000 to be paid by the Plan is well below the value established by the independent appraisals. In addition, as stated in 4 above, the Fund will also receive certain office equipment.

9. The applicant represents that Labor Services is owned by individuals who are unrelated to any of the Trustees, the Union or affiliated entities, or any employer contributing to the Fund. The applicant further represents that the purchase price was arrived at by arm's-length negotiations between the Trustees and Labor Services.

10. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) it is a single transaction which will not recur and which will be restrictively defined by the Termination/Purchase Agreement;

(2) the proposed transaction will provide a savings of Fund assets expended on administrative costs as well as provide better and more accurate claims processing;

(3) the Fund will be able to purchase the Computer Equipment and office equipment for an amount which is well below the fair market value of the Computer Equipment as determined by independent appraisals; and

(4) the Trustees of the Fund have determined that the proposed transaction is in the interests of and protective of the Fund and its participants and beneficiaries.

Notice to Interested Persons

All participants and beneficiaries of the Fund will be provided with a copy of the notice of pendency as published in the **Federal Register** and a statement informing them of their right to comment regarding the proposed exemption. The notice will be mailed, first class, to all participants and beneficiaries within 15 days after the publication of the notice of pendency in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a

prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory of administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to the purchase of the Computer Equipment and office equipment by the Fund from Labor Services for the cash amount of $125,000, so long as the amount does not exceed the fair market value of the items purchased on the date the transaction is consummated.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28130 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-164; Exemption Application No. D-3318]

Exemption From the Prohibitions for Certain Transactions Involving Peters, Malbon, Green, & Cuttino Associates, Ltd., Profit Sharing Plan, Located in Richmond, Virginia

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit: (1) The proposed loan (the Loan) of $70,000 by the Peters, Malbon, Greene & Cuttino Associates, Ltd. Money Purchase Pension Plan (the Plan), to Peters, Malbon, Greene & Cuttino Associates, Ltd. (the Employer), the sponsor of the Plan; and (2) the personal guarantees concerning repayment of the Loan by the trustees (the Trustees) of the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31470) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have satisfied the notification requirements as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in

ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the proposed Loan of $70,000 by the Plan to the Employer provided that the terms and conditions of the Loan are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party; and (2) the personal guarantees of the repayment of the Loan by the Trustees.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28124 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-168; Exemption Application No. D-3505]

Exemption From the Prohibitions for Certain Transactions Involving R.C. Willey & Son Inc. Profit Sharing Plan Located in Syracuse, Utah

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: The exemption would permit for a period of eight years certain proposed loans of money by the R.C. Willey & Son Inc., Profit Sharing Plan (the Plan) to R.C. Willey & Son Inc. (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34236) of the pendency before the Department of Labor (the Department) of a proposal to grant as exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed by the Plan trustees. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notice to interested persons as stated in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) Ilt is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loans of money by the Plan to the Employer for a period of eight years provided that: (1) the aggregate of the outstanding balances of all such loans at any point in time shall not exceed the lesser of $2,000,.000 or 25 percent of the assets of the Plan; and (2) the terms and conditions of such loans are not less favorable to the Plan than those obtainable from an unrelated party at the time the transactions are entered into.

The availability of the exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28128 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3656]

Notice of Proposed Exemption for Certain Transactions Involving the Richard L. Keith & Associates Profit Sharing Plan Located in Santa Rosa, California

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a partnership interest by the Richard L. Keith & Associates Profit Sharing Plan (the Plan) to Richard L. Keith (Mr. Keith), a party in interest with respect to the Plan, and an extension of credit by the Plan to Mr. Keith. The proposed exemption, if granted, would affect the Plan and Mr. Keith.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 15, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3656. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan which had approximately 5 participants as of June 30, 1981. Mr. Keith is the sole shareholder of the Plan sponsor, Richard L. Keith & Associates (the Employer), and the principal participant in the Plan.

2. In March, 1980, the Plan invested $50,000 in a Limited Partnership known as Hawake Limited (the Partnership). This investment was made out of Plan funds that had been placed in a segregated account for the benefit of Mr. Keith. The purpose of the Partnership was to acquire certain real property and develop low income housing units thereon in Sonoma County, California. The general partner is a totally unrelated party.

3. The Partnership acquired the property, but has been unable to proceed with the development due to the deteriorated economic conditions, high interest rates and increased construction costs. The Partnership has incurred debts in servicing loans that are secured by the property that was acquired and for engineering and other services to the Partnership. The general partner has also contributed approximately $20,000 of its own funds to pay current obligations of the Partnership. However, the general partner has no further funds and neither the Partnership nor the general partner is able to borrow additional funds. Certain balloon payments on the second loan on the acquired property will shortly be due. The Partnership will not be able to make the payments as they become due.

4. The property owned by the Partnership has been placed on the market for sale for nearly one year, and no offers have been received for the property. In light of all the above, it is the opinion of Exchange Bank (the Bank), the Plan's independent trustee, as well as that of the Employer and of Mr. Keith that there is a substantial risk that the entire amount of the Plan's investment will be lost if substantial amounts of additional monies are not contributed to the Partnership.

5. Mr. Keith has offered to purchase the Plan's interest in the Partnership for $50,000, the amount invested by the Plan therein. Mr. Keith, from whose segregated account the funds to purchase the Plan's interest in the Partnership came and who, under the circumstances, is the only beneficiary of the Plan directly interested in this transaction, has offered to give to the Plan (to be placed in his individual segregated account) his personal promissory note in the amount of $50,000. The principal will be payable on March 1, 1988. Interest at the rate of 12 percent per annum will be payable on March 1 of each year, commencing March 1, 1983. In addition, in the event that the Partnership interest should subsequently be sold for a profit, Mr. Keith has agreed that 75% of any such profit shall be paid to the Plan.

6. It is the opinion of the Bank that the proposed transactions will benefit the Plan, will result in the preservation of the Plan's assets, and will be in the best interests of the Plan's participants. It is the Bank's opinion that Mr. Keith's note, taking into account its interest rate, balloon payment, and the participation in profits that may accrue from any subsequent disposition of the Partnership interest, as well as Mr. Keith's personal financial ability, has a present value in excess of the present value of the Partnership interest being transferred to Mr. Keith in exchange for such note. In addition, the Bank represents that it will monitor the payment of the note during its course to ensure that the Plan's rights are being protected.

7. In summary, the applicant represents that the proposed transactions meet the criteria of Act section 408(a) because: (1) the Partnership interest has been, and the note would be, held only in the segregated account of Mr. Keith, so he would be the only Plan participant directly affected by the transactions; (2) the Plan's independent trustee, the Bank, has approved the transactions as appropriate for the Plan; (3) the Bank has determined that the present value of the note to be received by the Plan exceeds the present value of the

Partnership interest being sold by the Plan; and (4) the Bank will monitor the payment of the note and take whatever actions are necessary to enforce the Plan's rights.

Notice to Interested Persons

Since the only Plan assets affected by the proposed transactions are those in Mr. Keith's account, it has been determined that there is no need to notify interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of a Partnership interest by the Plan to Mr. Keith in exchange for Mr. Keith's note for $50,000, under the terms set forth in this notice, provided the terms of the transactions are not less favorable to the Plan than those obtainable in arm's-length transactions with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of October 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28132 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3425]

Notice of Proposed Exemption for Certain Transactions Involving the Southern Electric Supply Company, Inc. Profit Sharing Trust Located in Meridian, Mississippi

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of $350,000 by the Southern Electric Supply Company, Inc. Profit Sharing Trust (the Plan) to Southern Rentals (Southern), a party in interest with respect to the Plan and the guarantee of repurchase of the note by Southern Electric Supply Company, Inc. (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Southern, the Employer and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before November 24, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington D.C. 20216, Attention: Application No. D-3425. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan established by the Employer on August 1, 1975. Robert Merson, I.A. Semmes and Guy Taylor are the Plan's trustees. The Plan has 156 participants and total assets as of July 17, 1982 of $1,614,447.

2. The Plan proposes to loan Southern [1] $350,000, receiving in return a promissory note collateralized by a first mortgage on an office building (the Building) located at 301 46th Court, Meridian, Mississippi. The Building is currently leased by Southern to the Employer.

The loan is to be repaid in 180 equal monthly payments. The interest rate will be the prevailing interest rate charged by the Bank of Meridian, Meridian, Mississippi (the Bank) for similar loans on the date the loan is executed. The applicant represents that the interest rate will be at least as favorable to the Plan as the rate that would be charged by the the Bank in an arms's length transaction with an unrelated party.

3. The Building has been appraised by S. A. Rosenbaum of S. A. Rosenbaum & Company, as having a value of $625,000 as of November 19, 1981. Thus, the loan represents less than 56 percent of the value of the Building. Southern represents that it will add any additional collateral that may be required during the life of the loan to assure that the value of the collateral is at all times equal to at least 150 percent of the outstanding balance of the loan. In the event Southern should be in default on any provision of the loan, which default is not cured within 60 days, the Employer would agree to purchase the note from the Plan upon the request of the independent fiduciary appointed by the Plan's trustees (see below).[2] Southern agrees to assign, to the extent necessary, any rents received from the Employer toward repayment of its debt to the plan. During the life of the loan, Southern will keep the Building adequately insured against fire or other loss at its expense with the insurance payable to the plan.

4. The Plan trustees will appoint Edward N. Stephens (Mr. Stephens), a certified public accountant, to serve as an independent fiduciary of the propose loan. Mr. Stephens represents that he has been advised by legal counsel with regard to his duties, responsibilities and liabilities as a fiduciary under the Act in connection with the proposed loan. Mr. Stephens has no other relationships with the Employer, Southern, or the Plan.

Mr. Stephens represents that after examining the terms of the proposed loan, he has determined that it is appropriate and suitable for the Plan. Mr. Stephens will reexamine the terms of the proposed loan immediately prior to consummation of the loan and will confirm that it continues to be an appropriate and suitable transaction for the Plan. As an independent fiduciary, Mr. Stephens is empowered and directed to enforce the terms of the promissory note between the Plan and Southern, including the right to make demand for timely payment, the right to bring suit or other appropriate action against Southern or to demand payment from the Emmployer in the event of default, the responsibility to maintain accurate records and report at least annually to the Plan's trustees on the performance of the loan, specifically including whether the value of the collateral securing the loan is in excess of the outstanding balance of the loan.

5. In summary, the applicant represents that the proposed loan meets the statutory criteria for an exemption under section 408(a) of the Act because

(a) the Plan will receive an interest rate on the loan equal to that charged by an unrelated party in a similar transaction;

(b) Southern will insure the Building and add additional collateral so that the value of collateral securing the loan is always at least 150 percent of the outstanding balance of the loan;

(c) the loan will be administered by Mr. Stephens, an independent fiduciary; and

(d) Mr. Stephens, as Plan fiduciary, has determined that the proposed loan is appropriate and suitable for the Plan.

Notice to Interested Persons

Within 10 days after the notice of pendency is published in the **Federal Register**, notice will be furnished to all participants in the Plan by certified mail. The notice will include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and will inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1) (B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1) (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the

[1] Southern is a partnership which is owned 50% by Robert Merson (ther president of the Employer and a Plan trustee) and 50% by Sammy Davidson.

[2] The Employer has total assets of $16,233,518 as of October 31, 1981.

application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a loan of $350,000 by the Plan to Southern and the Employer's agreement to repurchase the note, provided that the terms of the transactions are not less favorable to the Plan those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transactions.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of Oct., 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28134 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3076]

Notice of Proposed Exemption for Certain Transactions Involving the Tenneco Inc. Thrift Plan Located in Houston, Texas

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of individual life insurance policies to the Tenneco Inc. Thrift Plan (the Plan) by Philadelphia Life Insurance Co. (PLI), a party in interest with respect to the Plan, and the payment of commissions to agents of PLI. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, PLI, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 29, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, it will be effective January 1, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3076. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406 (a) and (b) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code. The proposed exemption was requested in an application filed on behalf of Tenneco Inc. (Tenneco) and PLI, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On August 7, 1979, the Department published a class exemption [Prohibited Transaction Exemption 79-41 (PTE 79-41), 44 FR 46365] which permits insurance companies that have substantial stock or partnership affiliations with employers establishing or maintaining employee benefit plans to make direct sales of life insurance, health insurance or annuity contracts which fund such plans, if certain conditions are satisfied.

One of the conditions of PTE 79-41 is that no commissions may be paid with respect to a sale of covered contracts after December 31, 1981. The class applicants who had requested the relief granted in PTE 79-41 had represented that the subject insurance sales are generally arranged directly between the affiliated insurer and the plan (or its employer) without the intervention of a broker or other agent whose services would entitle it to a commission. Thus, it was represented that the selling company can furnish the insurance at a lower rate to the plan or its employer. However, the Department did state in PTE 79-41 that, where warranted by the circumstances and merits of a particular case, the Department would consider individual cases for possible additional exemptive relief.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is an individual account plan that had approximately 26,500 participants as of December 31, 1981. Tenneco is the named fiduciary of the Plan. Each participant determines investment options. These options include time deposits, securities of Tenneco and its affiliates, group annuity contract investments, and individual life insurance policies purchased from PLI. The Tenneco Benefits Committee (the Committee) determines the broad categories of investments available to participants, but the decision as to whether or not to purchase insurance is made by the individual participant without any input by Tenneco. Only 235 of the 26,500 Plan participants have chosen to purchase individual life insurance policies from PLI.

2. PLI is a wholly-owned subsidiary of Tenneco. It is a Pennsylvania legal reserve stock life insurance company, principally engaged in writing ordinary, group and credit life; group and credit accident and health; and individual and group annuities. PLI is licensed to write insurance in all states, except New York, and in the District of Columbia. On March 1, 1978, PLI became a wholly-owned subsidiary of Tenneco. The purchase of individual life insurance policies from PLI, or its predecessor, Tennessee Life Insurance Company, has been permitted as an investment option under the Plan for many years. The aggregate gross premiums received on account of policies issued to participant's accounts in the Plan were approximately $123,000 in 1980. These

gross premiums represented less than .09% of PLI's gross premiums for that period. During 1980, the total premiums received by PLI on account of all Tenneco employee benefit plans other than the Plan exceeded $25,000,000, approximately 16% of the total premium income of PLI.

3. When a participant indicates an interest in purchasing an individual policy, arrangements are made for an interview with a duly authorized agent of PLI who counsels the employee as to the amount and type of insurance and makes arrangements for any medical examination which may be required. The application is sent to a PLI Regional Home Office where underwriting takes place. When the application is approved, a Change of Investment Allocation Form is sent to the Committee. After verifying that the premiums are not greater than the participant's contributions, the Committee approves the investment. Billing of the trustee is done through PLI's Southwestern Regional Home Office. The trustee assumes custody of the policy, and the insured is issued a duplicate. The applicants represent that because PLI agents are rendering investment advise to Plan participants, such agents may be deemed to be Plan fiduciaries. In view of the foregoing, the applicants are requesting exemptive relief from section 406(a) and (b) of the Act for the subject transactions.

4. All of the individual life insurance policies purchased by the Plan prior to December 31, 1981 were sold by agents operating under contracts with PLI which entitle them to both first year and renewal commissions on such sales. These agents are independent contractors. They are not employees of PLI and are not regarded as full-time life insurance salesmen for social security tax purposes. The great majority of PLI's agents are contracted with and licensed with other life insurance companies, and there are no restrictions in PLI's Agency Appointment Contract on the agent's right to place business with other insurers. The applicants represent that except for the payment of these commissions, the sales of insurance contracts by PLI to the Plan comply with, and shall continue to comply with, the requirements of PTE 79-41. This exemption is being requested so that PLI may continue to pay commissions to agents on the sale (and renewal) of individual life insurance policies. The applicants represent that if the exemption is granted, PLI would undertake to require its agents to provide disclosure to the Plan's participants regarding commissions paid on contracts sold to the Plan on behalf of those participants.

5. The policies offered under the Plan are identical to those offered by PLI to the general Public. If PLI were not to pay commissions on the subject contracts, PLI would still be prohibited by state statutes from passing on the cost savings to the individual policy holders. The laws of nearly every state prohibit unfair discrimination in premium rates, cash values or other benefits provided by a life insurance policy between insureds of the same class or risk. The laws of many states also prohibit rebating, which is the giving up of commissions either by the agent or by the company as an inducement for the purchase of life insurance. Accordingly, the applicants represent that the effect of prohibiting the payment of commissions would be to benefit PLI and Tenneco at the expense of PLI's agents (who are generally compensated exclusively through sales commissions), without any corresponding benefit to Plan participants.

6. If PLI honors its contractual obligations to pay renewal commissions to its agents, the Plan's fiduciaries would have to discontinue paying premiums on the existing policies because such payments would not be exempt under PTE 79-41. The Plan would be obliged to transfer the policies to the individual participants so that the participants can pay the premiums directly to the insurer. In that case, the participants would have to pay for their policies with their after-tax earnings previously used for Plan contributions and allocate other amounts of their income to the Plan to assure the continuance of employer contributions on their behalf. The applicants represent that the curtailment of the opportunity to maintain insurance protection while receiving employer contributions would thus work an economic hardship on those participants who have limited funds available for the purchase of life insurance.

The applicants further represent that if PLI complies with PTE 79-41 and does not pay commissions to its agents, PLI subjects itself to liability to the agents and possible sanctions from the State Insurance Departments.

7. In summary, the applicants represent that the subject transactions meet the statutory criteria of section 408(a) of the Act because: (1) The decisions to invest in individual life insurance contracts are made by the Plan participants themselves without any input by Tenneco or PLI; (2) any savings generated by PLI's failure to pay commissions to its agents may not be passed on to Plan participants according to state law, and would only inure to the benefit of PLI and Tenneco; and (3) each of the protections provided to the Plan and its participants and beneficiaries by PTE 79-41, except for the condition barring the payment of commissions after December 31, 1981, has been and will be met for the subject sales of insurance.

Notice to Interested Persons

Within 14 days of the publication of this proposed exemption in the **Federal Register**, the applicants represent that they will notify all Plan participants. Notice will be accomplished by posting a copy of the notice of proposed exemption in areas customarily used for communications to employees of Tenneco and all its affiliated companies which have employees who are participants in the Plan. Notice will also inform all interested persons of their right to comment and request a hearing with respect to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the Plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules.

Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective January 1, 1982, the restrictions of section 406 (a) and (b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code shall not apply to the sale of individual life insurance contracts by PLI to the Plan and the payment of commissions to agents of PLI, provided the following conditions are met:

(a) PLI—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with tenneco that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Compliance from the Insurance Commissioner of its domiciliary state, Pennsylvania, within the 18 months prior to the date when the transaction is entered into or when such certificates were last made available by the domiciliary state, if earlier, and

(4)(i) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Pennsylvania) by the Insurance Commissioner of the State of Pennsylvania within 5 years prior to the end of the year preceding the year in which the sale occurred, or (ii) has undergone an examination by an independent certified public accountant for its last completed taxable year.

(b) The Plan pays no more than adequate consideration for the insurance contracts.

(c) The Commission paid to an agent by PLI in connection with the sale of a policy to the Plan does not exceed the commission paid to the agent by reason of placing the same policy with a person who is not a Plan participant.

(d) For taxable years of PLI beginning after December 31, 1981, the gross premiums and annuity considerations recieved in that taxable year by PLI for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which PLI is a party in interest or disqualified person by reason of a relationship to such employers described in section 3(14) (E) or (G) of the Act and section 4975(e)(2) (E) or (G) of the Code do not exceed 50 percent of the gross premiums and annuity considerations for all lines of insurance in that taxable year by PLI. For purposes of this condition (d):

(1) The term "gross premium and annuity considerations received" means the total of premiums and annuity considerations received, reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by PLI.

(2) All premiums and annuity considerations written by PLI for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this proposed exemption.

Signed at Washington, D.C. this 5th day of October, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards.

[FR Doc. 82-28133 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-29-M

Wage and Hour Division

Florida Rural Legal Services, Inc., Petitioner; Proceedings To Determine Fair Value or Reasonable Cost of Facilities Furnished to Employees; Postponement of Hearing

Pursuant to authority in Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)), Reorganization Plan 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), Secretary's Order 16-75 (40 FR 55913), Employment Standards Order No. 78-1 (43 FR 51469), Secretary's Order 1-81 (46 FR 28048), and 29 CFR 531.4 and 531.5, the Administrator of the Wage and Hour Division, on the petition of Florida Rural Legal Services, Inc., proposes to determine the "fair value" or "reasonable cost" of the meals, lodging and other facilities customarily furnished to the employees of: John Miller, Jr., d.b.a., John Miller and Sons, Tangerine, Florida.

On September 10, 1982, a notice was published in the **Federal Register** (47 FR 39926) that interested persons may submit written data, views, or arguments pertinent to this question to the Administrator of the Wage and Hour Division by October 15, 1982.

The notice also stated that interested persons could make oral presentations of data, views, or arguments before an Administrative Law Judge at a hearing to be held on October 25, 1982.

This notice postpones the hearing until February 8, 1983, and postpones the date for submission of written views until January 7, 1983.

For further information call James L. Valin at (202) 523-8353.

Signed at Washington, D.C., this 13th day of October 1982.

William M. Otter,

Administrator.

[FR Doc. 82-28491 Filed 10-14-82; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-61)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: November 9, 1982, 8:30 a.m. to 4 p.m.; November 10, 1982, 8:30 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 6004, 400 Maryland Ave. SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Deene J. Weidman, National Aeronautics and Space Administration, Code RTM-6, Washington, DC 20546 (202/755-3277).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assist the NASA, in assessing the current adequacy of Materials, Structures, and Structural Dynamics technology for space research and recommend modifications of the planned NASA research and technology program. The Subcommittee, chaired by Dr. John Hedgepeth, is comprised of eleven members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

November 9, 1982

8:30 a.m.—Introduction
8:45 a.m.—Review of Previous Meeting Minutes
9:15 a.m.—Report of Subcommittee on Structures/Controls Interaction from meeting of August 17-19
10:15 a.m.—Review of Structures and Materials Long Range Research Plans Center by Center
4 p.m.—Adjourn

November 10, 1982

8:30 a.m.—Finish Review of Center Long Range Plans
10 a.m.—Panel Discussion of Issues
4 p.m.—Adjourn

Richard L. Daniels,

Director, Management Support Office, Office of Management.

October 7, 1982.

[FR Doc. 82-28237 Filed 10-14-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Atmospheric Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences.

Date: November 3, 4, and 5, 1982.

Time: 9:00 a.m.-5:00 p.m.

Place: Rooms 642 and 643, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: CLOSED—November 3 (all day) and November 4 (9:00 a.m.—12:00 Noon). OPEN—November 4 (1:00 p.m.-5:00 p.m.) and November 5 (all day).

Contact person and summary minutes: Dr. Eugene W. Bierly, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: (202) 357-9874.

Purpose of committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area. Provides expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance and selection of awards.

Agenda: November 3—9:00 a.m. to 5:00 p.m. and November 4—9:00 a.m. to 12:00 Noon (Closed) Rooms 642 and 643. Committee review of the Aeronomy and Global Atmospheric Research Programs including examination of proposal jackets, reviewer comments and other privileged material.

November 4 (Open 1:00 p.m.—5:00 p.m.) Room 642

1:00 p.m.—Opening Remarks and Introductions by Division Director, ATM and Chairman, ACAS
1:10 p.m.—Remarks by AD/AAEO
1:25 p.m.—Approval of Minutes from ACAS Meeting October 19-21, 1981
1:30 p.m.—Presentation of Review Reports to ACAS
2:00 p.m.—Remarks by Chairman, ACAS, and ACAS Members
2:10 p.m.—Budgetary Status
2:20 p.m.—Status of National Astronomy and Ionosphere Center (Arecibo)
2:25 p.m.—Status of Sondre Strom Radar
2:40 p.m.—Status of Atmospheric Sciences Renewal Proposal Experiment
3:00 p.m.—ALPEX Status
3:15 p.m.—Global Tropospheric Chemistry Program
3:45 p.m.—Interactive Computer Systems for Universities
4:15 p.m.—Instrumentation Needs for Atmospheric Sciences
4:45 p.m.—Honoraria for Consultants

November 5, 1982

9:00 a.m.—UCAR Activities: Corporate Prospectus Fiscal Year 1983-Fiscal Year 1987; Corporate Affiliates Program
10:30 a.m.—NCAR Activities: JAWS; Replacement of 7600; Need for AVC (NSB Requirement for ACAS Advice); Long Range Facility Projections
12:00 p.m.—Program for Spring ACAS Meeting, 1983: Date; Agenda Items
1:00 p.m.—Adjourn Meeting
1:00-5:00 p.m.—Breakthroughs, Opportunities and Trends in Atmospheric Sciences

Reason for closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably interwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the 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 Public Law 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.

October 12, 1962.

[FR Doc. 82-28388 Filed 10-14-82; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-63, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and time: November 4-5, 1982; 9:00 AM to 5:00 PM each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Part Open—Open November 4—9:00 AM to 12:00 PM. Closed November 4—1:00 PM to 4:00 PM. Open November 4—4:00 PM to 5:00 PM. Closed November 5—9:00 AM to 12:00 PM. Open November 5—1:00 PM to 5:00 PM.

Contact person: Dr. Edward F. Hayes, Director, Division of Chemistry, National Science Foundation, Washington, D.C. 20550 Telephone (202) 357-7947.

Summary minutes: May be obtained from Dr. Edward F. Hayes.

Purpose of committee: To provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: The meeting will involve briefing of the Committee by NSF staff on items of topical interest to the Committee. The closed session will involve review of pending proposals.

Reason for closing: The meeting will deal with a review of proposals containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals, the meeting will also include a review of the peer review documentation pertaining to applicants. 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.

October 12, 1982.

[FR Doc. 82-28391 Filed 10-14-82; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for International Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs.

Dates: November 4, 1982, 9 a.m. to 5 p.m. November 5, 1982, 9 a.m. to 4 p.m.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC; Room 1240.

Type of meeting: Open.

Contact person: Dr. Bodo Bartocha, Director, Division of International Programs, National Science Foundation, Washington, DC 20550. Telephone (202) 357-9552.

Summary of minutes: May be obtained from Contact Person.

Purpose of committee: To provide advice, recommendations, and oversight related to support for international cooperation in science and engineering.

Agenda: November 4: Recent events affecting the Division of International Programs; Recent activities of the National Science Board, concerning international science, including the 16th Board report. Strategic considerations for cooperative programs, session I: (1) industrial countries, (2) developing countries, and (3) centrally controlled countries; Interim review of the U.S.-U.S.S.R. cooperative program; Program oversight in 1983. November 5: Membership plans. Cooperative programs with Brazil and Mexico. Strategic considerations, session II. Resolutions and assignments. Future meetings.

M. Rebecca Winkler,

Committee Management Coordinator.

October 12, 1982.

FR Doc. 82-28389 Filed 10-14-82; 8:45am]

BILLING CODE 7555-01-M

Advisory Council; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: NSF Advisory Council.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date: Thursday & Friday, November 4-5, 1982.

Time: 9:00-5:00 p.m., Nov. 4; 9:00-12 Noon, Nov. 5.

Type of Meeting: Open.

Contact person: Ms. Jeanne Hudson, Executive Secretary, NSF Advisory Council, National Science Foundation, Rm. 518, 1800 G Street, N.W., Washington, D.C. 20550. Telephone: 202/357-9419.

Purpose of advisory council: The purpose of the NSF Adviosry Council is to provide advice and counsel to the NSF Director and principal members of his staff on Foundation-wide issues which require the expertise of the many and varied disciplines and program interests represented in the Foundation.

Summary minutes: May be obtained from the contact person at above stated address.

Agenda: To review progress by the three task groups of the NSF Advisory Council and to meet with the Director and Deputy Director and NSF Staff.

M. Rebecca Winkler,

Committee Management Coordinator.

October 12, 1982.

[FR Doc. 82-28390 Filed 10-14-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company, which revised Technical Specifications for operation of the La Salle County Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois. The Amendment is effective as of the date of issuance.

The Amendment consists of a revision to the license in that the completion dates of the Safety Parameter Display System and Emergency Operations Facility were changed from October 1, 1982 to December 31, 1982.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this Amendment was not required since the Amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this Amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this Amendment.

For further details with respect to this action, see (1) the application for amendment dated September 21, 1982 and (2) Amendment No. 7 to License No. NPF-11 dated October 5, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of October 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-28442 Filed 10-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329 OM, 50-330 OM, 50-329 OL and 50-329 OL]

Consumers Power Co. (Midland Plant, Units, 1 and 2); Resumption of Evidentiary Hearings

October 8, 1982.

Notice is hereby given that evidentiary hearings in the consolidated OL/OM proceeding will resume at 9:00 a.m. on October 27, 1982, and will continue on October 28-30 and November 1-5, 1982, to the extent necessary. Hearings on all dates except October 28 will be held at the Midland County Courthouse Auditorium, 301 W. Main, Midland, Michigan. The hearings on October 28 will be held at the Ramada Inn Central, Room E, 1815 S. Saginaw Road, Midland, Michigan.

Dated at Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 82-28441 Filed 10-14-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal

for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision
2. The title of the information collection: 10 CFR Part 73, Physical Protection of Plants and Materials
3. The form number if applicable: Not applicable
4. How often the collection is required: On occasion
5. Who will be required or asked to report: Nuclear facility licensees
6. An estimate of the number of responses: 877,067
7. An estimate of the total number of hours needed to complete the requirement or request: 101,811
8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable
9. Abstract: Licensees are required to provide information to ensure that an adequate level of protection is provided for nuclear facilities and materials.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Gwendolyn W. Pla, (202) 395-7313.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 8th day of October 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-28447 Filed 10-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Company of Colorado and Fort St. Vrain Generating Station; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-34 issued to the Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Generating Station (the facility) located in Platteville, Colorado. The amendment is effective as of the date of its issuance.

The amendment removes a license condition and revises the Technical Specifications to: (1) Define individual refueling region outlet temperatures, (2) define a comparison region, (3) limit the maximum mismatch between region outlet temperature and core average outlet temperature, and (4) add a new surveillance requirement to assure that the limit on comparison region RPF discrepancy is met and the values of RFP used to determine the outlet temperature of the seven NW boundary regions are correct. This amendment is based on updated data and analyses which have been performed during a test program up to 100 percent power, as authorized in Amendment 23. The test program has confirmed safe operation of the plant up to full power, and the revised Technical Specifications were submitted to assure that safe operation of the plant is maintained. The original fluctuation problem has been resolved and the corrections confirmed by a test program up to full power. Therefore, the Fort St. Vrain Nuclear Generating Station may continue previously authorized steady-state operation up to the designed 842 MWt power level.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 6, 1982, (2) Amendment No. 28 to License No. DPR-34 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, (PDR), 1717 H Street, N.W., Washington, D.C. and at the Local PDR in Greeley, Colorado. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 5th day of October, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-28443 Filed 10-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp. and R. E. Ginna Nuclear Power Plant; Issuance of Director's Decision Under 10 CFR Section 2.206

On March 11, 1982 (47 FR 14988, April 7, 1982), Ms. Ruth Caplan, Chair, Sierra Club, filed a show cause petition with the Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (the staff) requesting that the operating license for the R. E. Ginna Nuclear Power Plant, located in Wayne County, New York, be suspended or, in the alternative, permission to restart the reactor be withheld, until critical safety issues were reviewed relating to the January 25, 1982, steam generator tube rupture event. The petition was considered under 10 CFR 2.206.

On May 22, 1982, the Director of Nuclear Reactor Regulation denied the portion of Ms. Caplan's request relating to suspension of operation. However, the Director granted the petitioner's request that the staff review include and consider specific areas detailed in the petition prior to restart of the Ginna plant. The documentation of this review is contained in NUREG-0916 [*See* Director's Decision DD-82-03, 15 NRC 1348 (May 22, 1982)].

By letter dated June 10, 1982 Ms. Caplan requested that the Commission exercise its authority under 10 CFR 2.206(c) to review the issues raised in the petition dated March 11, 1982. The Commission referred Ms. Caplan's June 10 request to the staff for consideration under the provisions of 10 CFR 2.206 of the Commission's regulations.

Upon review of information pertaining to the concerns at the Ginna plant and the information provided by Ms. Caplan, the Director of Nuclear Reactor Regulation has determined that issuance of an order to show cause why the operating license for the Ginna plan should not be suspended is not warranted. Accordingly, Ms. Caplan's June 10, 1982 request has been denied.

The reasons for the denial are explained in the "Director's Decision" under 10 CFR 2.206 (DD-82-11), as supported by DD-82-03 dated May 22, 1982 and the safety evaluation contained in NUREG-0916, which are available for public inspection in the Commission's Public Document Room,

1717 H Street NW., Washington, D.C. and at the Local Public Document Room at the Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the decision will become the final action of the Commission twenty-five (25) days after issuance unless the Commission, on its own motion, institutes review of this decision within that time.

Dated at Bethesda, Maryland, this 8th day of October 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-28444 Filed 10-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. NPF-4 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 1 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises the NA-1 Technical Specifications by increasing the average reactor coolant system temperature from 580.3°F to 582.8°F. The 2.5°F increase is enveloped within the already approved and docketed FSAR accident and transient analyses for the currently licensed thermal power level of 2785 Megawatts.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and reguations in 10 Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 8, 1982; (2) Amendment No. 42 to Facility Operating License No. NPF-4; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of October 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-28445 Filed 10-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR-24, and Amendment No. 69 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective 20 days from the date of issuance.

The amendments modify the Technical Specifications describing the operation and surveillance testing requirements of the containment purge supply and exhaust isolation valves and modify the terminology in the basis of the Technical Specifications for containment testing requirements.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 28, 1981 as modified January 28, 1982, (2) Amendment Nos. 64 and 69 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of October, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-28446 Filed 10-14-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on October 28, 1982, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the proposed rule on Licensed Operator Staffing at Nuclear Power Units and other related staffing issues. In addition, the Subcommittee members and consultants will exchange comments on the NRC Staff Integrated Human Factors Program Plan.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify

the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, October 28, 1982
8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, David Fischer (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 12, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-28440 Filed 10-15-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published a notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on August 27, 1982 (47 FR 37986). Individual authorities established or revoked under Schedules A, B, or C between August 1, 1982 and August 31, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

In the Department of the Army, up to nine senior policy analyst positions, GS-14/15, at the Strategic Studies Institute, Army War College, with appointments to be made initially for up to 3 years and thereafter extended annually if needed. Effective August 17, 1982.

In the Department of Health and Human Services, up to 11 clerical and technical positions at grade GS-5 in the Social Security Administration which involve contact with recent Indochinese immigrants and which require a knowledge of Indochinese languages and an understanding of and sympathy for the problems faced by recent Indochinese immigrants. Effective August 31, 1982.

In the Department of the Army, Defense Language Institute, all positions on the faculty and staff which are classified in the GS-1700 occupational group, the GS-1040 Language Specialist series, and the GS-303 Bilingual Clerk series, that require either proficiency in a foreign language or knowledge of foreign language teaching methods; Schedule A 213.3107(g)(1) expanded effective August 31, 1982, to cover positions requiring knowledge of foreign language teaching methods because it is impractical to examine for them.

The following exceptions are revoked:

In the Department of the Interior, Office of Hearings and Appeals, positions of Chairman and Members of the Alaska Native Claims Appeals Board; revoked effective August 4, 1982, because the Board has been abolished.

In the Department of Transportation, Maritime Administration, Special Assistant to the Superintendent, Assistant Superintendent for Planning and Administration, Dean, and Superintendent; revoked effective August 5, 1982, because the positions are no longer filled under Schedule A 213.3194(e)(7).

In the Department of the Army, Defense Language Institute, Clerical and Education Aid positions (except at the English Language School) whose incumbents are required to have a foreign language knowledge and whose duties require rapid and accurate typing, writing, proofreading or related skills used in the production of foreign language material; revoked effective August 31, 1982, because the authority has been merged into Schedule A 213.3107(g)(1).

In the Department of the Army, Defense Language Institute, Foreign Language Instructor positions at local Army language training facilities established pursuant to the Defense Language Program; revoked effective August 31, 1982, because the authority has been merged into Schedule A 213.3107(g)(1).

Schedule B

The following exception is established:

In the Federal Home Loan Bank Board, up to 73 positions at GS-15 and below engaged in exploring methods to promote stability in the thrift industry, restore the industry to profitability, and protect individual savers. Effective August 11, 1982.

Schedule C

The following exceptions are established:

In the Department of Agriculture, Federal Crop Insurance Corporation, one Confidential Assistant to the Manager. Effective August 16, 1982.

In the Department of Agriculture, Federal Crop Insurance Corporation, one Director, Congressional and Public Affairs Division. Effective August 16, 1982.

In the Department of Agriculture, Food and Nutrition Service, one Confidential Assistant to the Administrator. Effective August 20, 1982.

In the Department of Commerce, International Trade Administration, one Confidential Assistant to the Deputy Assistant Secretary for the U.S. and Foreign Commercial Services. Effective August 27, 1982.

In the Department of Commerce, International Trade Administration, one Congressional Liaison Specialist to the Under Secretary. Effective August 30, 1982.

In the Department of Defense, Office of the Secretary, one Special Assistant to the Director, Defense Advanced Research Projects Agency. Effective August 16, 1982.

In the Department of Defense, one Private Secretary (Interdepartmental Activities) to the Personal Photographer to the President. Effective August 16, 1982.

In the Department of Defense, Office of the Secretary, one Joint Chiefs of Staff Representative for the Mutual and Balanced Force Reductions Negotiations. Effective August 19, 1982.

In the Department of Defense, Office of the Secretary, one Special Assistant to the Director, Department of Defense

Dependents Schools. Effective August 30, 1982.

In the Department of Transportation, Federal Aviation Administration, one Special Assistant to the Administrator. Effective August 2, 1982.

In the Department of Transportation, Research and Special Programs Administration, one Special Assistant to the Administrator. Effective August 2, 1982.

In the Department of Transportation, Office of the Secretary, one Congressional Liaison Specialist to the Director, Office of Congressional Affairs. Effective August 4, 1982.

In the Department of Transportation, Office of the Secretary, one Executive Office to the Director, Executive Secretariat. Effective August 12, 1982.

In the Department of Transportation, Office of Small and Disadvantaged Business Utilization, one Minority Business Resource Officer. Effective August 20, 1982.

In the General Services Administration, Federal Property Resources Services, one Confidential Assistant to the Commissioner. Effective August 6, 1982.

In the General Services Administration, one Director, Office of Communications. Effective August 10, 1982.

In the Department of Health and Human Services, Office of Human Development Services, one Special Assistant to the Assistant Secretary. Effective August 4, 1982.

In the Department of Health and Human Services, on External Affairs Specialist to the Director, Office of Community Services. Effective August 6, 1982.

In the Department of Health and Human Services, Health Care Financing Administration, one Confidential Assistant to the Associate Administrator for Policy. Effective August 12, 1982.

In the Department of Health and Human Services, Office of the Secretary, one Confidential Assistant to the Chief of Staff. Effective August 27, 1982.

In the Department of Health and Human Services, Health Care Financing Adminstration, one Confidential Assistant to the Associate Administrator for Policy. Effective August 27, 1982.

In the Department of Health and Human Services, one Confidential Assistant to the Director, Office of Community Services. Effective August 27, 1982.

In the Department of Housing and Urban Development, one Executive Assistant to the Regional Administrator in New York. Effective August 16, 1982.

In the Department of Housing and Urban Development, Office of Labor Relations, one Staff Assistant to the Assistant Secretary for Labor Relations. Effective August 31, 1982.

In the U.S. International Communication Agency, Associate Directorate for Management, one Special Assistant to the Associate Director for Programs. Effective August 16, 1982.

In the U.S. International Communication Agency, Associate Directorate for Management, one Staff Assistant to the Associate Director for Programs. Effective August 16, 1982.

In the U.S. International Communication Agency, Associate Directorate for Managemenrt, one Staff Specialist to the Associate Director for Programs. Effective August 23, 1982.

In the US. International Communication Agency, Associate Director for Management, one Special Assistant to the Associate Director for Educational and Cultural Affairs. Effective August 27, 1982.

In the Department of the Interior, U.S. Fish and Wildlife Service, one Confidential Assistant to the Director. Effective August 14, 1982.

In the Department of Interior, Office of the Secretary, one Special Assistant to the Assistant Secretary. Effective August 19, 1982.

In the Department of Interior, Office of the Secretary, one Special Assistant to the Assistant Director for State Liaison. Effective August 30, 1982.

In the Department of Navy, Office of the Secretary, one Staff Assistant to the Principal Deputy Assistant Secretary of the Navy. Effective August 2, 1982.

In the Department of Navy, Office of the Secretary, one Attorney-Adviser to the General Counsel. Effective August 12, 1982.

In the Department of Navy, one Private Secretary to the Under Secretary of the Navy. Effective August 19, 1982.

In the Department of Navy, one Staff Assistant to the Principal Deputy Assistant Secretary of the Navy. Effective August 19, 1982.

In the Executive Office of the President, Office of Administration, one Administrative Assistant to the Associate Director. Effective August 9, 1982.

In the Executive Office of the President, Office of Administration, one Confidential Secretary to the General Counsel. Effective August 9, 1982.

In the Executive Office of the President, Office of Administration, one Adminstrative Assistant to the Director. Effective August 9, 1982.

In the Department of Treasury, U.S. Customs Service, one Special Assistant to the Comissioner. Effective August 2, 1982.

In the Department of Treasury, Office of the Secretary, one Special Assistant to the Treasurer. Effective August 10, 1982.

In the Department of State, one Secretary (Stenography) to the Executive Secretary/Special Assistant to the Secretary of State. Effective August 4, 1982.

In the Department of Army, Office of the Secretary of the Army, one Human Resource Advisor to the Assistant Secretary of the Army. Effective August 4, 1982.

In the Department of Education, one Special Assistant to the Deputy Under Secretary for Management. Effective August 5, 1982.

In the National Endowment for the Arts, one Director of Special Partnership Projects. Effective August 6, 1982.

In the Arms Control and Disarmament Agency, one Private Secretary to the Assistant Director, Multilateral Affairs Bureau. Effective August 10, 1982.

In the Department of Labor, one Staff Assistant to the Assistant Secretary for Veterans' Employment. Effective August 12, 1982.

In the Department of Justice, Office of the Assistant Attorney General, one Attorney-Advisor to the Deputy Assistant Attorney General. Effective August 30, 1982.

In the Environmental Protection Agency, one Special Assistant to the Regional Administrator in Dallas, Texas. Effective August 30, 1982.

In the Agency for International Development, one Deputy Director to the Director, Office of Legislative Affairs. Effective August 31, 1982.

In the Small Business Administration, one Special Assistant to the Regional Administrator in Dallas, Texas. Effective August 31, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-28342 Filed 10-14-82; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 8, 1982.

The above named national securities exchange has filed applications 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 following stocks:

Kansas Gas and Electric Co., Common Stock, No Par Value (File No. 7-6309)
Kansas Power and Light Co., Common Stock, $5 Par Value (File No. 7-6310)
Puget Sound Power and Light Co., Common Stock, No Par Value (File No. 7-6311)
Rochester Gas and Electric Corp., Common Stock, $5 Par Value (File No. 7-6312)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before Nobember 2, 1982 written data, views and arguments concerning the above-referenced applications. 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 applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-28369 Filed 10-14-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 8, 1982.

The above named national securities exchange has filed applications 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 following stocks:

Energy Exchange Corp., Common Stock, Class A, $.01 Par Value (File No. 7-6335)
Beverly Enterprises, Common Stock, $.10 Par Value (File No. 7-6336)
Central Louisiana Electric Co., Inc., Common Stock, $4 Par Value (File No. 7-6337)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 2, 1982 written data, views and arguments concerning the above-referenced applications. 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 applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are 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. 82-28368 Filed 10-14-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 8, 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:

Florida Progress Corporation, Common Stock, $2.50 Par Value (File No. 7-6321)

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 November 2, 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-28370 Filed 10-14-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 8, 1982.

The above named national securities exchange has filed applications 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 following stocks:

Apache Corporation—Common Stock, $1.25 Par Value (File No. 7-6338);
Nutri/System, Inc.—Common Stock, $.01 Par Value (File No. 7-6339);
Triton Energy Corporation—Common Stock, $1 Par Value (File No. 7-6340);
AMR Corporation—Common Stock, $1 Par Value (File No. 7-6341); Warrants Expiring April 1, 1984 (File No. 7-6342).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 2, 1982 written data, views and arguments concerning the above-referenced applications. 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 applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are 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. 82-28371 Filed 10-14-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 827]

Agency Forms Submitted for OMB Review

AGENCY: State Department.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review..

PURPOSE: The proposed information collections are for use by the Office of Overseas Schools of the Department of State in connection with providing grants of assistance to American-sponsored overseas schools which provide educational opportunity for U.S. Government dependent children residing overseas.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—JF-43.
(4) Title of information collection—Overseas Schools Financial Report.
(5) Frequency—quarterly.
(6) Respondents—American-sponsored elementary and secondary schools overseas.
(7) Estimated number of responses—165.
(8) Estimated total number of hours needed to fill out form—110.

The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—JF-44.
(4) Title of information collection—Overseas Schools Progress and Evaluation Report.
(5) Frequency—Annual.
(6) Respondents—American-sponsored elementary and secondary schools overseas.
(7) Estimated number of responses—165.
(8) Estimated total number of hours needed to fill out form—82.5.

The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—JF-45.
(4) Title of information collection—Approval of Funding to Support Special Educational Programs.
(5) Frequency—Annual.
(6) Respondents—American-sponsored elementary and secondary schools overseas.
(7) Estimated number of responses—165.
(8) Estimated total number of hours needed to fill out form—112.5.

The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—FS-573.
(4) Title of information collection—Overseas Schools Questionnaire.
(5) Frequency—Annual.
(6) Respondents—American-sponsored elementary and secondary schools overseas.
(7) Estimated number of responses—165.
(8) Estimated total number of hours needed to fill out form—82.5.

The following summarizes the information collection proposals submitted to OMB:

(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—FS-573A.
(4) Title of information collection—Information regarding professional staff members of overseas schools.
(5) Frequency—annual.
(6) Respondents—American-sponsored elementary and secondary schools overseas.
(7) Estimated number of responses—165.
(8) Estimated total number of hours needed to fill out form—82.5.

The following summarizes the information collection proposals submitted to OMB:

(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—FS-573B.
(4) Title of information collection—Overseas Schools Summary Budget Information.
(5) Frequency—Annual.
(6) Respondents—American-sponsored elementary and secondary schools overseas.
(7) Estimated number of responses—165.
(8) Estimated total number of hours needed to fill out form—82.5.

Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed format and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer, (202) 632-3602. Comments and questions should be directed to (OMB) David Reed, (202) 395-7231.

Dated: October 1, 1982.

Thomas M. Tracy,

Assistant Secretary for Administration.

[FR Doc. 82-28362 Filed 10-14-82; 8:45 am]

BILLING CODE 4710-22-M

[Public Notice 828]

Agency Forms Submitted for OMB Review

AGENCY: State Department.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: The Bureau of Consular Affairs of the Department of State proposes to survey 1982 passport applicants to determine why the Department experienced an unpredicted 27% increase in passport applications during the months from March to June 1982. The survey findings will help in devising a program to enable the Department to perform more efficiently next year.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—new.
(2) Title of information collection—Survey of factors which caused dramatic increase in 1982 passport applications.
(3) Originating Office—Bureau of Consular Affairs.
(4) Frequency—Nonrecurring.
(5) Respondents—Passport applicants.
(6) Estimated number of responses—1,000.
(7) Estimated total number of hours needed to respond—500. Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed format and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer, (202) 632-3602. Comments and questions should be directed to (OMB) David Reed, (202) 395-7231.

Dated: October 1, 1982.

Thomas M. Tracy,

Assistant Secretary for Administration.

[FR Doc. 82-28361 Filed 10-14-82; 8:45 am]

BILLING CODE 4710-22-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 200
Friday, October 15, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, October 22, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1478-82 Filed 10-13-82; 12:22 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 19, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: New Orleans Commodity Exchange Corn Designation.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1479-82 Filed 10-13-82; 12:22 p.m.]

BILLING CODE 6351-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., October 20, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 134-42: Modification of the Gulf/Mediterranean Ports Conference to conform to the Commission's self-policing requirements.
2. Agreement No. 10422-1: Modification of the tripartite Space Charter Agreement to specify procedures for resignation of parties.
3. Discussion of rates quoted "subject to booking."

Portion closed to the public:

1. Docket No. 82-26: Rascator Maritime S.A. v. Cargill, Incorporated—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1476-82 Filed 10-13-82; 11:11 am]

BILLING CODE 6730-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, October 20, 1982.

PLACE: 20th Street and Constitution Avenue, 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: October 13, 1982.

[S-1475-82 Filed 10-13-82; 10:23 am]

BILLING CODE 6210-01-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-43A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 44915, October 12, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Wednesday, October 20, 1982.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 CFR 201.36(b)(4), Commissioners Eckes, Stern, Frank, and Haggart voted, by action jacket SE-82-12, to hold a portion of the briefings with respect to items No. 5 (Investigation 701-TA-190 (Preliminary) (Nitrocellulose from France)—briefing and vote) and No. 6 (Investigation 731-TA-107 (Preliminary) (Melamine from Brazil)—briefing and vote) in closed session.

Commissioners Eckes, Stern, Frank, and Haggart determined, pursuant to 19 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close these portions of the meeting and directed the issuance of this notice at the earliest practicable time.

PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1480-82 Filed 10-13-82; 3:00 pm]

BILLING CODE 7020-02-M

6

NATIONAL SCIENCE BOARD

DATE AND TIME:

October 21, 1982 9:00 a.m. (Open Session) and 7:00 p.m. (Open Session)
October 22, 1982 9:00 a.m. (Closed Session)
October 22, 1982 9:30 a.m. (Open Session)

PLACE: National Science Foundation, 1800 G Street, N.W., Washington, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:

Thursday, October 21, 9:00 a.m. and 7:00 p.m.

1. Minutes—Open Session—September 1982 Meeting
2. Chairman's Items
3. Director's Report
4. Plant Biology Review and Presentations
5. Engineering Review and Presentations

Friday, October 22, 9:30 a.m.

6. NSF Initiatives in University Research Instrumentation
7. Board Representation at Advisory Committee and Other Meetings
8. Reports of Board Committees and Individuals
9. Other Business
10. Next Meetings

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

Friday, October 22, 9:00 a.m.

A. Minutes—Closed Session—September 1982 Meeting
B. NSB and NSF Staff Nominees
C. Grants, Contracts, and Programs

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357-9582.

[S-1474-82 Filed 10-13-82; 9:08 am]

BILLING CODE 7555-01-M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

TIME AND DATE:

9 a.m., October 20, 1982.

10 a.m., October 21, 1982.

PLACE: South Auditorium, Federal Building, 915 Second Avenue, Seattle, Washington.

MATTERS TO BE CONSIDERED:

- Council Decision on Economic and Demographic Assumptions
- Staff Presentation on Fuel Price Assumptions
- Staff Presentation on Conservation Double Counting in the Energy Forecast
- Staff Presentation on Conservation Evaluation
- Staff Presentation on Fuel Switching
- Staff Presentation on Use of Surplus Electricity in the Region and Revisions to Rate Design Memo

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong, (503) 222-5161.

Edward Sheets,

Executive Director.

[S-1477-82 Filed 10-13-82; 11:41 am]

BILLING CODE 0000-00-M

8

CIVIL AERONAUTICS BOARD

SHORT NOTICE AND CLOSURE OF ITEMS FOR THE OCTOBER 7, 1982 MEETING.

TIME AND DATE: 10:00 a.m., October 7, 1982.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW, Washington, D.C. 20428.

SUBJECT:

28a. Docket 40932, Aerlinte Eireann Teoranta (Aer Lingus) request for anti-trust immunity. (BIA)
31. Report on Thailand. (BIA)
32. Report on Japan. (BIA)

STATUS:

PERSON TO CONTACT:

Phyllis T. Kaylor,

The Secretary (202) 673-5068.

[S-1481-82 Filed 10-13-82; 3:58 pm]

BILLING CODE 6320-01-M

federal register

Friday
October 15, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut:	
CT82-3001	Feb. 5, 1982.
CT81-3032	May 15, 1981.
Colorado: CO82-5103	Feb. 12, 1982.
Illinois: IL82-2047	Oct. 8, 1982.
New York:	
NY81-3022	April 3, 1981.
NY82-3025	Sept. 3, 1982.
New Mexico: NM82-4031	June 18, 1982.
Massachusetts: MA81-3054	Sept. 4, 1981
Maryland: MD81-3074	Oct. 9, 1981.
Pennsylvania:	
PA81-3068	Sept. 25, 1981.
PA81-3072	Oct. 2, 1981.
PA81-3077	Oct. 9, 1981.
Wisconsin: WI82-2043	Aug. 27, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL81-1289(AL82-1063)	Sept. 4, 1981.
Colorado: CO82-5104(CO82-5124)	Feb. 26, 1982.
Illinois:	
IL81-2037(IL82-2049)	June 26, 1981.
IL81-2043(IL82-2050)	July 17, 1981.
Kentucky:	
KY80-1089(KY82-1062)	Aug. 15, 1980.
KY81-1275(KY82-1066)	Aug. 14, 1981
KY81-1276(KY82-1066)	Aug. 14, 1981.
KY81-1277(KY82-1067)	Aug. 21, 1981.
KY81-1299(KY82-1065)	Oct. 16, 1981.
KY81-1300(KY82-1064)	Oct. 16, 1981.
Louisiana: LA82-4023(LA82-4050)	May 7, 1981.
Mississippi:	
MS81-1175(MS82-1069)	Jan. 30, 1981.
MS81-1178(MS82-1070)	Jan. 30, 1981
MS81-1286(MS82-1068)	Sept. 4, 1981.
New Jersey: NJ79-3037(NJ82-3029)	Oct. 5, 1979.

Signed at Washington, D.C., this 8th day of October, 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

DECISION NO. CT82-3001 - MOD. #9
(47 FR 5621 - February 5, 1982)
FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONN.

CHANGE:
HEAVY AND HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; CEMENT MASONS; FINISHERS; STONE MASONS:		
AREAS 1,2,3,6,7,8&9	12.85	1.85
AREA 4	13.62	1.08
AREA 5	12.50	2.20
LABORERS		
Laborers	11.20	2.25
Asphalt rakers, chain saw operators, fence and guard rail erectors, pipelayers, mason tenders, pneumatic tool operators, powdermen, and wagon drill operators	11.45	2.25
Air truck operators, block pavers, curb setters	11.70	2.25
Blaster	11.95	2.25

DECISION NO. CT81-3032 - MOD. #19
(46 FR 27040 - May 15, 1981)
HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONN.

HEAVY AND HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; CEMENT MASONS; FINISHERS; STONEMASONS	12.85	1.85
LABORERS		
Laborers	11.20	2.25
Asphalt rakers, chain saw operators, fence and guard rail erectors, pipelayers, mason tenders, pneumatic tool operators, powdermen and wagon drill operators	11.45	2.25
Air track operators, block pavers, curb setters	11.70	2.25
Blasters	11.95	2.25

DECISION NO. CO82-5103 - Mod. #8
(47 FR 6549 - February 12, 1982)
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit, and Weld Counties, Colorado

Change:

	Basic Hourly Rates	Fringe Benefits
Carpenters: (Area 1): Adams, Arapahoe and Boulder Counties ONLY:		
Zone 1	$14.045	$3.46
Zone 2	15.80	3.46
Zone 3	17.56	3.46
Plumbers; Steamfitters: Remaining Counties (including northern portions of Douglas, Elbert, and Park Counties)	17.27	3.13
Sheet Metal Workers	18.03	3.36 +3%
Asbestos Workers	13.27	2.98

Modification Page 2

DECISION NO. IL82-2047
MOD. #1
(47 FR October 8, 1982
Macon County, Illinois

Change:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.98	2.77
BRICKLAYERS;Caulkers; Cement Block Layers; Block Layers; Cleaners; Marble Setters; Pointers; Terrazzo Workers; & Tile Setters	15.975	2.10
ELECTRICIANS:		
Residential not to exceed 3 stories or 12 units per building	11.31	1.40+ 3.35%
All other work	17.40	1.40+ 8.35%
PAINTERS:		
Brush; Roller; & Vinyl Paperhangers	14.95	1.50
Spray	15.70	1.50
Steeples & structures over 50'	15.95	1.50
PLUMBERS & STEAMPITTERS:		
Residential not to exceed 3 floors	13.54	2.05
All Other Work	19.34	2.60
SHEET METAL WORKERS:		
Residential	10.37	2.31
Commercial Building	16.84	2.31 +a
TRUCK DRIVERS:		
Group I	13.975	1.50 +b
Group II	14.375	1.50 +b
Group III	14.575	1.50 +b
Group IV	14.825	1.50 +b
Add:		
PAINTERS (Residential):		
Brush; Roller & Vinyl Paperhangers	9.95	1.50
Spray	10.70	1.50
Structures over 50'	10.95	1.50

DECISION NO. NY81-3022 - MOD. #3
(46 FR 20437 - April 3, 1981)
ONONDAGA COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS		
Elbridge and Skaneateles	17.00	2.70+ 3%
Remainder of County Electricians	15.70	3.25+ 3%
Cable Splicers	16.80	3.25+ 3%
ASBESTOS WORKERS	16.98	2.44
BOILERMAKERS	18.25	3.39

DECISION NO. NY82-3025 - MOD. #2
(47 FR 39079 - Sept. 3, 1982)
ORANGE COUNTY, NEW YORK

CHANGE:
FRINGES ONLY

	Basic Hourly Rates	Fringe Benefits
CARPENTERS, SOFT FLOOR LAYERS, BRIDGE, DOCK AND WHARF		
Twps. of Toledo, Woodburg, Part of Cornwall, Monroe, Chester, Blooming Grove and Highlands		4.40+e

Modification Page 3

DECISION #NM82-4031 - Mod. #3
47FR26540 - June 18, 1982
STATEWIDE, NEW MEXICO

CHANGE THE DESCRIPTION OF WORK TO READ: "General Building and Heavy Engineering construction shall include the construction, alteration, repair and demolition of buildings, including residential buildings, office buildings, warehouses, industrials and commercial buildings, instutional and public buildings, and all air conditioning, conduit, heating and other mechanical electrical works and site preparation for building or heavy engineering projects under this classification, stadia; and shall include electrical, gas, water, sewer lines, and such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydro-electric projects; and well drilling, telephone and electrical transmission lines which are part of general building and heavy engineering projects; mining appurtenances such as tipples, washeries and loading and discharfing chutes, and specialized structures for testing, launching and recovering space and other rocket-type missiles, (ALSO INCLUDING RESIDENTIAL PROJECTS IN SANTA FE, BERNALILLO, CIBOLA, RIO ARRIBA, TAOS, SANDOVAL AND VALENCIA COUNTIES).

Modification Page 4

DECISION NO. MA81-3054 - MOD. #4 (46 FR 44631 - September 4, 1981)	Basic Hourly Rates	Fringe Benefits
BARNSTABLE, BRISTOL, DUKES, ESSEX, MIDDLESEX, NANTUCKET, NORFOLK, PLYMOUTH AND SUFFOLK COS. MASSACHUSETTS		
CHANGE:		
ROOFERS: Middlesex; Norfolk; Suffolk; Essex (except Haverhill); Bristol (remainder of county); Plymouth (remainder of county)		
Journeyman	13.45	2.95
Pitch Work	14.45	2.95
Slaters	13.70	2.95

DECISION NO. MD81-3074 - MOD. #9 (46 FR 50238 - October 9, 1981)	Basic Hourly Rates	Fringe Benefits
ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND, AND FOR HEAVY CONSTRUCTION PROJECTS IN HARFORD & HOWARD COUNTIES, MARYLAND		
CHANGE:		
ASBESTOS WORKERS	15.13	3.39
BOILERMAKERS	17.765	2.915
CARPENTERS, SOFT FLOOR LAYERS, MILLWRIGHTS, PILEDRIVERS, DIVERS AND DIVER'S TENDERS		
Zone 1 - Anne Arundel County (the City of Annapolis and that portion of the county south and east of the following lines beginning at Rte. 3 and the Patuxent River, north of Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd. left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island):		
Carpenters & soft floor layers	14.92	1.55
Millwrights	15.61	1.55
Piledriver	15.25	1.55
Divers	23.20	1.55
Diver's Tenders	16.53	1.55
Zone 2 - Anne Arundel (remainder of county), Baltimore, Baltimore City, Harford and Howard Counties:		
Carpenters, soft floor layers, resilient floor layers, pile drivers and diver's tenders	13.80	2.11
Divers	27.50	2.11
Millwrights	14.15	2.36
ELECTRICIANS	15.60	2.70+ 3.5%
ELEVATOR CONSTRUCTORS		
Mechanic	15.08	2.465
Helper	10.56	2.465
Probationary Helper	7.54	
LINEMEN		
Zone 1 - From Baltimore City Hall to 45 miles (air line):		
Linemen, cable splicers, digging and equipment operator	16.00	.70+8%
Truck drivers	10.00	.70+8%
Groundmen	9.60	.70+8%

Modification Page 5

	Basic Hourly Rates	Fringe Benefits
LINEMEN (CONT'D)		
Zone 2 - Over 45 miles from Baltimore City Hall		
Linemen, cable splicers, digging and equipment operator	16.25	.70+8%
Truck drivers	10.25	.70+8%
Groundmen	9.85	.70+8%
PAINTERS		
Brush, roller, spackling, taping and wallcovering	12.05	2.29
Steel, spray, swinging stages, boatswain chair, sand and waterblasting, steam cleaning and epoxies	12.80	2.29
Ames tool - Bazooka	13.05	2.29
PLUMBERS	15.22	2.82
ROOFERS	11.35	1.45
SPRINKLER FITTERS		
Baltimore City including a 10-mike radius beyond the city limits	16.90	2.83+j
Hartford and Howard Counties and the remainder of Anne Arundel and Baltimore Counties	16.17	2.83
STEAMFITTERS	16.68	3.51
TILE & TERRAZZO WORKERS	13.86	2.07
TILE, MARBLE & TERRAZZO FINISHERS	9.90	.90
TRUCK DRIVERS		
Building		
Goose-neck, drop frame trailer drivers	13.14	2.50
"A" Frame drivers, winch truck drivers, fork lift drivers, trailer drivers	12.86	2.50
Euclid wagon dumpster drivers	11.54	2.50
Chauffers on flat-bed truck and pick-up	11.49	2.50
Dump truck drivers	11.14	2.50

	Basic Hourly Rates	Fringe Benefits
Mixer truck drivers with agitators of 12 yds. capacity and under	11.00	2.50
Mixer truck drivers with agitators of over 12 yds. capacity	11.43	2.50
Building (Excavation):		
Euclid wagon & dumpster trucks	11.54	2.50
Dropframe gooseneck & trailer drivers	11.40	2.50
Dump truck, sweeper, boring machine, miscellaneous equipment water truck, fuel & lube truck	11.14	2.50
Pick-up truck	10.84	2.50
Heavy		
Euclid wagons & dumpsters	10.54	2.50
Drop frame, gooseneck & trailers	10.39	2.50
Dump; sweeper, boring machine and miscellaneous equipment; water trucks, fuel and lube truck	10.14	2.50
Pick-up	9.86	2.50

j. 5 Paid holidays: Memorial Day, 4th of July, Labor Day, Thanksgiving Day & Christmas Day

Modification Page 6

DECISION NO. PA81-3068
MOD. NO. 8
(46 FR 47403 - Sept. 25, 1981)
Lebanon County, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$15.76	2.04
LINE CONSTRUCTION:		
Linemen & Cable Splicers	14.25	.60+ 3-3/8%
Groundmen	8.55	.60+ 3-3/8%
Winch truck operator	9.98	.60+ 3-3/8%

DECISION NO. PA81-3072
MOD. NO. 5
(46 FR 48851-October 2, 1981)
Adams & York Counties, PA.

CHANGE:	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	15.76	2.04
LINE CONSTRUCTION:		
Linemen, cable splicer	14.25	.60+ 3-3/8%
Winch truck operator	9.98	.60+ 3-3/8%
Groundman	8.55	.60+ 3-3/8%

MOD. NO. 3, dated 6/4/82 in 47 FR 24523, to read Decision No. PA81-3072;
MOD. NO. 4, dated 7/2/72 in 47 FR 29146 to read Decision No. PA81-3072

DECISION NO. PA81-3077
MOD. NO. 6
(46 FR 50265 - October 9, 1981)
Lancaster County, PA

CHANGE:	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$15.76	2.04
LINE CONSTRUCTION:		
Linemen &Cable Splicers	14.25	.60+ 3-3/8%
Winch Truck Operator	9.98	.60+ 3-3/8%
Groundman	8.55	3-3/8%
OMIT:		
Roofers, Composition, Damp and Waterproofing	15.67	2.35+e
Roofing assistant	7.00	2.35+e
ADD:		
Roofers, Composition	12.75	1.61

DECISION NO. WI82-2043 -
MOD. #3
(47 FR 38035 - August 27, 1982)
Statewide, Wisconsin

Add:
Footnotes:

b. Per week per employee on payroll 30 days or longer. 92.68 per week, Health, Welfare and Pension

c. Per week per employee on payroll 30 days or longer. 91.25 per week, Health, Welfare and Pension.

SUPERSEDEAS DECISION

STATE: ALABAMA

COUNTIES: CALHOUN, ETOWAH, GREEN, JEFFERSON, PICKENS, ST. CLAIR, SHELBY, SUMTER, TALLADEGA, TUSCALOOSA, AND WALKER

DECISION NO.: AL82-1063

DATE: DATE OF PUBLICATION

Supersedes Decision No.: AL81-1289 dated September 4, 1981 in 46 FR 44599.

DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 9.50	
CARPENTERS:		
1. Green, Pickens, Sumter, & Tuscaloosa Counties	10.17	.06
2. Jefferson, Shelby, Walker, & that portion of St. Clair & Talladega Cos. west of Hwy 231 from the Blount Co. line south to Interstate 20. Also that portion of St. Clair & Talladega Cos. south of Interstate 20 and west of U.S. Alternate 231 south, not including the city of Talladega & that portion of Talladega Co. south, of the City of Talladega & west & south of the Talladega National Forest	10.63	1.09
3. Calhoun, Etowah, & Remainder of St. Clair, & Talladega Cos.	8.71	1.31
ELECTRICIANS	14.20	1.20 + 3%
IRONWORKERS	13.48	1.48
LABORERS:		
Zone 1: Jefferson, St. Clair, Shelby, Talladega, & Walker Cos.		
1. Asphalt Raker, Air Tool Oper., Chain Saw Oper., Concrete Saw Oper., Vibrator Oper.	7.49	.95
2. General Laborers, Hand Blade Oper., Batch Truck Oper., Batch Truck Dumper	7.31	.95
3. Pipelayer, Mucker, Mortar Mixer	7.44	.95

LABORERS: cont'd	Basic Hourly Rates	Fringe Benefits
ZONE 1		
4. Powderman & Blaster	$ 8.32	.95
5. Tunnel Work -----		
Tunnel Miner	8.29	.95
Tunnel Laborer	7.80	.95
Chuck Tender	7.97	.95
Pneumatic Concrete Gun Oper., & Nuzzleman	8.16	.95
ZONE 2: Calhoun, Etowah, Green, Pickens, Sumter, & Tuscaloosa Counties		
1. Asphalt Raker, Air Tool Chain Saw Oper., Concrete Saw Oper., Vibrator Oper.	6.78	.95
2. General Laborer, Hand Blade Oper., Batch Truck Dumper	6.60	95
3. Pipelayer, Mucker, Mortar Mixer	6.73	.95
4. Powderman & Blaster	7.49	.95
5. Tunnel Work---		
Tunnel Miner	7.57	.95
Tunnel Laborer	7.09	.95
Chuck Tender	7.27	.95
Pneumatic Concrete Gun Oper. & Nuzzleman	7.46	.95
PLUMBERS & PIPEFITTERS	9.45	.65
POWER EQUIPMENT OPERATORS:		
CLASS A	11.41	1.50
CLASS B	10.69	1.50
CLASS C	10.15	1.50
CLASS D	9.33	1.50
TRUCK DRIVERS:		
Up to 1-1½ tons	7.44	.58
1½ up to 3 tons	7.73	.58
3 up to 5 tons	8.08	.58
Off Road Truck	8.80	.58

POWER EQUIPMENT OPERATORS: Classification Definitions

CLASS A: Asphalt plant, asphalt spreader, backhoe, boat operator (inboard), boom tractor, bulldozer, cableways, cherry picker, compressors-2 or more within 200 ft. radius, concrete plants-stationary, mixer operator, concrete pump, conveyors-2 or more up to 4, core driller-crane-derricks-draglines-deck hoist on construction barges, crane-hydro, dinky locomotive, distributors-bituminous surface, dredge operator, farm tractor with attachments (30 hp or more-which are an integral part of tractor), forklift, front end loader, gradall, headhouse operator, heavy duty, mechanic, hoist-2 drums or more, ice plant in connection with concrete, mixers-5 bags or over, motor graders, piledriver, push tractor, quarry master, s rock crusher, rollers-asphalt, scraper, scrapers in tandem (operator to receive 25¢ per hour for each additional scraper), shovels, trenching machines and all similar equipment

CLASS B: Crawler, tractor, hoist-drum, pumps-2 or more 4 inch & over, under 5 within 200 ft. radius, rollers (other than asphalt), winch truck, well points & other equipment used for dewatering

CLASS C: Air compressor, blade graders-pull type, farm tractor with attachments finishing machine-screed mounted self-propelled, mixers-under 5 bags

CLASS D: Outboard boats, air compressor-125 and under, conveyor-one, (1) tended by oiler, pumps-under 4 inch or under, welding machines-3 or under, oiler in-board boats, deckhand

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: El Paso
DECISION NUMBER: CO82-5124 DATE: Date of Publication
Supersedes Decision No. CO82-5104 dated February 26, 1982, in 47 FR 8497
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$13.27	$2.98
BOILERMAKERS	14.97	2.525
BRICKLAYERS; Stonemasons	15.65	1.96
CARPENTERS:		
Zone 1: 0-40 miles from Post Office in Colorado Springs	13.57	3.36
Zone 2: 40-75 miles from Post Office in Colorado Springs	14.07	3.36
Zone 3: 75 miles and over	14.32	3.36
CEMENT MASONS:		
Cement Masons	13.79	2.32
Working with composition materials and color	14.29	2.32
Working on temporary platform over 25'	14.04	2.32
DRYWALL INSTALLERS	14.87	3.16
ELECTRICIANS	16.12	2.06+ 3%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.88	2.43+ a
Helpers	10.42	2.43+ a
Probationary Helpers	7.44	
GLAZIERS	13.80	1.52+ b
IRONWORKERS:		
Structural, Ornamental, and Reinforcing	14.35	2.71
MARBLE SETTERS	13.31	2.05
MILLWRIGHTS	14.66	2.39

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush and Roll; Hardwood Finishers; Sandblast; Pot Tenders	$12.19	$1.88
Drywall Finishers (hand)	12.44	1.88
Spray; Swing Stage and Chair; Sandblast (exterior); Hazardous work; Paperhangers; Drywall Finishers (tool)	12.79	1.88
Sandblast (interior); Steeplejack	14.11	1.88
PLASTERERS	13.44	.01
PLUMBERS; Pipefitters	14.80	4.20
ROOFERS	12.71	1.64
SHEET METAL WORKERS	17.03	3.26+ 3%
SOFT FLOOR LAYERS	13.14	3.23
SPRINKLER FITTERS	16.67	2.83
TERRAZZO WORKERS	15.53	2.79
TILE SETTERS	13.31	1.55
TILE, MARBLE and TERRAZZO FINISHERS:		
Finishers	10.75	3.80
Floor Grinders	10.75	3.80
Base Grinders	11.45	3.80
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental		

DECISION NO. CO82-5124 Page 2

	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2
LABORERS:		
BUILDING CONSTRUCTION:		
Group 1	$ 9.95	$10.45
Group 2	10.23	10.73
Group 3	10.75	11.25
FRINGE BENEFITS: $2.59		
ZONE DESCRIPTIONS:		
ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in Colorado Springs		
ZONE 2: That area encompassed by 30 or more driving miles from the Main Post Office in Colorado Springs		
POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises):		
Group 1	12.90	
Group 2	13.25	
Group 3	13.60	
Group 4	13.75	
Group 5	13.90	
Group 6	14.05	
(For work in Tunnels, Shafts, and Raises):		
Group 1	13.05	
Group 2	13.40	
Group 3	13.50	
Group 4	13.75	
Group 5	13.90	
Group 6	14.30	
Group 7	13.90	
FRINGE BENEFITS: $2.95		

	Basic Hourly Rates	Basic Hourly Rates
TRUCK DRIVERS:		
Group 1	$9.36	
Group 2	9.46	
Group 3	9.56	
Group 4	9.60	
Group 5	9.66	
Group 6	9.71	
Group 7	9.76	
Group 8	9.81	
Group 9	9.91	
Group 10	9.96	
Group 11	10.06	
Group 12	10.21	
Group 13	10.26	
Group 14	10.36	
Group 15	10.46	
Group 16	10.56	
Group 17	10.66	
Group 18	10.86	
FRINGE BENEFITS: $2.04		

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for over 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

b. 15 days Paid Vacation after 1600 hours

LABORERS
BUILDING CONSTRUCTION

Group 1: Building Construction Laborer

Group 2: Laborers - Underpinning and shoring eight (8) feet or more below working surface. Power Tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels. Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 3: Pipelayers on Building Construction. Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work. Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts, and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit Conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts, and Raises)(Cont'd)

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises) (Cont'd)

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

TRUCK DRIVERS: (Cont'd)

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: ILLINOIS COUNTIES: PEORIA & TAZEWELL
DECISION NUMBER: IL82-2049 DATE: Date of Publication
Supersedes Decision No. IL81-2037, dated June 26, 1981 in 46 FR 33181
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.00	3.03
BOILERMAKERS	18.50	2.605
BRICKLAYERS; Stonemasons	15.91	2.97
CARPENTERS:		
Commercial:		
Peoria Co. (Chillicothe & Vic.):		
Carpenters; Piledrivermen; & Soft Floor Layers	15.03	2.68
Millwrights	15.28	2.68
Tazewell & Peoria (Rem. of Co.) Cos.:		
Carpenters; & Soft Floor Layers	16.38	2.07
Millwrights; Piledrivermen	16.88	2.07
Residential:		
Peoria Co. (Chillicothe & Vic.)	13.68	2.68
Tazewell & Peoria (Rem. of Co.) Cos.	14.36	2.82
CEMENT MASONS	15.63	2.75
ELECTRICIANS:		
Electricians	17.32	2.50
Cable Splicers	19.05	2.56
ELEVATOR CONSTRUCTORS:		
Mechanics	16.38	2.465 +a&b
Helpers	70%JR	2.465 +a&b
Helpers (Prob.)	50%JR	
GLAZIERS	16.59	1.31
IRONWORKERS	15.755	3.32
LATHERS	12.67	1.16
MARBLE SETTERS; Terrazzo Workers & Tile Setters	15.56	2.97
MARBLE, TERRAZZO, & TILE FINISHERS:		
Marble & Tile Finishers	14.74	2.05
Terrazzo Finishers & Floor Machine Operators	14.87	2.05
Base Machine Operators	15.12	2.05
PAINTERS:		
Brush	15.50	1.73
Spray; Structural Steel	16.35	1.73
PLASTERERS	15.79	2.60

	Basic Hourly Rates	Fringe Benefits
PLUMBERS; Pipefitters; & Steamfitters:		
Peoria & Tazewell (North of Hwy. #98) Cos.:		
Commercial Building	16.69	2.00
Residential	15.92	2.00
Tazewell Co. (Rem. of Co.)	13.55	1.64
ROOFERS	12.85	1.125
SHEET METAL WORKERS	16.75	2.34+c
SPRINKLER FITTERS	16.67	2.83
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.		
LABORERS: Peoria Co. & the City of East Peoria In Tazewell County.		
Class 1	14.27	2.45
Class 2	14.395	2.45
Class 3	14.52	2.45
Class 4	14.445	2.45
Class 5	14.645	2.45
LABORERS: Remainder of Tazewell Co.		
Unskilled	14.67	2.05
Semi-Skilled	14.87	2.05
Skilled	15.07	2.05
POWER EQUIPMENT OPERATORS		
Group 1	17.24	1.75
Group 2	17.04	1.75
Group 3	16.665	1.75
Group 4	16.39	1.75
Group 5	15.78	1.75

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TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits
Group I	14.875	1.15+d
Group II	15.275	1.15+d
Group III	15.475	1.15+d
Group IV	15.725	1.15+d

CLASSIFICATION DEFINITIONS

LABORERS: Peoria County & the City of East Peoria in Tazewell Co.

Class 1 - Bricklayers' Tenders; Carpenter Tenders; Cement Mason Tenders; Common Laborers; Concrete Form Dismantler; Curing Concrete; High Pressure Hose; Stone & Tile Derrickmen; Tool Crib Men; Wall Men & House Movers; Window Washers; & Wrecking & Dismantling Old Buildings

Class 2 - Air Tamper; Cement Men & Sack Shakers; Chain Saw; Compactor, Rammer Type; Concrete Saw; Dismantler in Composite Crew With Carpenters; Drill Operator; Jackhammer; Kettlemen & Carriers; Men Handling Hot Stuff; Paving Breaker; Plasterers' Tenders; Setting Up & Using Laser Beam Equipment; & Signalling & Spotting of Buckets on Rig or Rig Men

CLASS 3 - Gunnite Pumpmen & Pots; Sandblasting Pump Men & Pots; Setting Up & Using Concrete Burning Bars; Tile Layers or Laterial Sewer; Underpinning & Shoring of Existing Buildings & Unloading & Handling of Creosote Materials

CLASS 4 - Power Wheel Barrow or Buggies

CLASS 5 - Cutting & Acetylene Torch; Gunnite Nozzle Men; Sandblasting Nozzle Men; & Woodblock Setters

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LABORERS: Remainder of Tazewell County

Unskilled Laborers - Carpenters Tender; Tool Cribmen; Cleaning & Oiling Machinery & Tools; Fireman or Salamander Tenders; Gravel Box Men; Form Handlers; Material Handlers; Fencing; Cleaning Lumber; Pit Men; Landscapers; Unloading Explosives; Laying of Sod, Planting of Trees, Removal of Trees; Piledriver Helpers; Asphalt Plant Helpers; Wrecking; Fireproofing; Unloading & Carrying of Rebars; Caisson Top Man Helper; Mason Tenders; Scaffold Workers; Laborers w/dewatering systems; Plaster Tenders; & Tunnel Laborers (Free Air)

Semi- Skilled - Handling of Materials treated w/oil & creosote, Asphalt and/or Foreign Material harmful to skin & clothing handled by any mode or method; Track; Cement Handlers; Signaling & Spotting of Rigs & Equipment; Chloride Handlers; Wet Concrete Workers; Tunnel Helpers in Free Air; Batch Dumpers; Kettle & Tar Men; Tank Cleaners; Plastic Installer; Motorized Buggies or Motorized Units used for Wet Concrete or Building Materials; Sewer Workers (excluding Pipe Layer & Helper); Vibrator Operators; Mortar Mixer Op.; Cement Silica, Clay, Fly Ash, Lime & Plaster Handlers (Bulk or Bag); Cofferdam Workers; Work on Concrete Paving; Placing, Cutting & Tying of Reinforcing; Deck Hand; Dredge Hand & Shore; Bank Men on Floating Plant; Asphalt Workers & Layers with Machine; Grade Checker; Dumpmen & Spotter where Grade is to be established; Power Tools; Chain Saw Operator; Jackhammer & Drill Operators; Air Tamping Hammerman; Caisson Top Man; Gunnite Pot Man; Batterboard Setter; Digging Bell Holes; Driving of Stakes & Setting Stringlines for all Machinery

Skilled - Caisson or Tunnel Miners & Muckers; Gunnite Nozzlemen; Welders; Cutters, Burners & Torchmen; Tile or Pipelayers & Helpers; Steel Form Setters-Street & Highway; Concrete Saw Operator; Screenman on Asphalt Pavers; Front End Man on Chip Spreader; Tending Masons with Hot Materials or/where Foreign Matter or Materials are used; Multiple Concrete Duct-Leadman; Luteman; Curb Asphalt Machine Operator; Ready Mix Scalemen; Permanent Portable or Temporary Plant; Handling Master-Plate or similar Materials; Laser Beam Op.; Concrete Burning Machine Op.; Coring Machine Op.; Underpinning & Shoring of Building; Dynamite Shooter; Cribbing & Jackman in Trench & Hydraulic Jackman

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POWER EQUIPMENT OPERATORS:

Group 1 - Cranes; Escalated rate on Crane; Derrick; Booms, $.01 per hour per foot, After 80 feet of Boom including Jib; Overhead Cranes; Gradall; Cherry Pickers (and similar types, over 15 ton lifting capacity); Mechanics; Central Concrete Mixing Plant Operator; Road Pavers (27E-dual drum-tri batchers); Blacktop Plant Operators and Plant Engineers; 3 Drum Hoist; Hydro Cranes; Shovels; Skimmer Scoops; Koehring Scoopers; Draglines; Backhoe; Hoptoes-Crane-Type; Derrick Boats; Pile Drivers and Skid Rigs; Clam-Shells; Locomotive Cranes; Dredge; Motor Patrol; Power Blades Dumore-Elevating and similar types; Tower Cranes (crawler mobile and stationary); Crane-Type Backfiller; Drott Yumbo and (similar types considered as cranes); Caisson Rigs; Dozer; Tournadozer; Work Boats; Ross Carrier; and Helicopter

Group 2 - Trench Machine; Pumpcrete-Belt Crete-Squeeze Cretes-Screw-Type Pumps and Gypsum Bulker and Pump; Dinkeys; Power Launches; Tournapulls (multiple Unit); Earth Movers, $.25 per hour for each Scoop over one; Scoops; Push Cats; Endloaders; Side Boom; P-H one pass Soil-Cement Machine (all similar types); Wheel Tractors (industrial) or Farm w/dozer-Hoe-End-Loader or other attachments); Pugmill with Pump Backfillers; Asphalt Surfacing Machine; Euclid Loader; Forklifts; Formless Finishing Machine; Jeeps w/Ditching Machine, or other attachments; Tune-Luger; Rock Crushers; Automatic Cement and Gravel Batching Plants; Mobile Drills (soil testing and similar types); Flaherty Spreader or similar types; Heavy Equipment Greaser (top greaser on spread); Surries and similar type); 1 and 2 Drum Hoists (buck hoists and similar types Freight and Passenger Elevators Chicago Boom, Boring Machine and Pipe Jacking Machine, Hydro Boom, Starting Engineer on Pipeline, C.M.I. and similar types; Straw Blower; Hydro Seeder and F.W.D. and similar types

Group 3 - Tractor (truck type) without power unit pulling rollers; Rollers on Asphalt; Brick or Macadam; Concrete Breakers; Concrete Spreaders; Mule Pulling Rollers; Center Stripper; Cement Finishing Machines; Barger Greene or similar Loaders; Vibro Tamper (all similar types); Self-Propelled, Winch or Boom Truck; Mechanical Bull Floats; Mixer over 3 bags to 27E; Tractor Pulling Power Blade or Elevating Grader, Porter Rex Rail; Clary Screed; Pugmill (without pump); Screed Man on Laydown Machine; Firemen and Spray Machine On Paving

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POWER EQUIPMENT OPERATORS (CONT'D)

Group 4 - Air Compressor; Air and Steam Valves; Power Subgrader; Oil Distributor; Straight Tractor; Trac-Are without attachments; Curb Machine; Truck Cranes Oiler; and Truck type Hoptoe Oilers

Group 5 - Herman Nelson Heater, Drovo, Warner, Silent Glo, & similar types; Self-Propelled Concrete Saws; Assistant Heavy Equipment Greaser on Spreed; Roller, 5 tons and under on Earth or Gravel; Form Grader; Pump 1 or 2; Generator 1 or 2; Welding Machine 1 or 2 - 300 amp. or over; Mixer 3 bag and under (standard capacity); Bulk Cement Plant; Crawler Crane; and Skid Rig Oilers

TRUCK DRIVERS:

Group I - Drivers on 2 Axles hauling less than 9 tons; Air Compressor & Welding Machine incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site, & Truck Driver Tenders

Group II - 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

Group III - 2, 3, or 4 Axles hauling 16 tons or more; Dispatcher; 5-Axles or more combination units; Mechanics & Working Foreman; & Water Pulls

Group IV - Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day After Thanksgiving Day; & G-Christmas Day

FOOTNOTES:

a. Six Paid Holidays: A through G
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 3% of gross earnings to SASMI
d. $51.00 per week per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: ILLINOIS COUNTY: SANGAMON
DECISION NUMBER IL82-2050 DATE: Date of Publication
Supersedes Decision No. IL81-2043, dated July 17, 1981 in 46 FR 37167
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.99	2.76
BOILERMAKERS	17.05	2.905
BRICKLAYERS; Caulkers; Cleaners; Pointers & Stonemasons	15.25	2.22
CARPENTERS:		
Commercial building:		
Carpenters; Lathers & Soft Floor layers	15.50	2.03
Millwrights; & Piledrivermen	16.00	2.03
Residential:		
Housing - 1 & 2 Family Dwellings (except buildings ((High rise)) or steel concrete construction)	11.01	2.03
CEMENT MASONS	15.63	1.50
ELECTRICIANS:		
Commercial Building:		
Electricians & Cable Splicers	17.32	2.29
Residential not to exceed 3 Floors	10.45	1.615
ELEVATOR CONSTRUCTORS:		
Mechanics	16.375	2.465 +a&b
Helpers	70%JR	2.465 +a&b
Helpers (Prob.)	50%JR	
GLAZIERS	14.89	.97
IRONWORKERS	15.95	2.23
MARBLE SETTERS; Terrazzo Workers; & Tile Setters	15.25	2.22
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:		
Marble & Tile Finishers	16.00	
Terrazzo Finishers; & Terrazzo Floor Machine Ops.	16.15	
Terrazzo Base Machine Ops.	16.55	
PAINTERS:		
Brush	13.65	1.75+c
Sandblasting	14.15	1.75+c
Spray	14.40	1.75+c
Rollers; Taping	14.65	1.75+c

	Basic Hourly Rates	Fringe Benefits
PLASTERERS	17.51	2.01
PLUMBERS; Pipefitters; & Steamfitters	17.03	2.33
ROOFERS	15.13	2.75
SHEET METAL WORKERS:		
Commercial Building	16.78	2.46+d
Residential	10.91	2.46
SPRINKLER FITTERS	16.67	2.83
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		
LABORERS:		
UNSKILLED	14.10	2.10
SEMI-SKILLED	14.30	2.10
SKILLED	14.45	2.10
POWER EQUIPMENT OPERATORS:		
CLASS I	16.25	1.85
CLASS II	14.60	1.85
CLASS III	13.00	1.85
TRUCK DRIVERS:		
GROUP I	14.325	1.15+e
GROUP II	14.725	1.15+e
GROUP III	14.925	1.15+e
GROUP IV	15.175	1.15+e

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CLASSIFICATION DEFINITIONS

LABORERS

Unskilled - All Sewer Workers plus Depth Pay; Asphalt Plant Laborers; Bankmen on Floating Plant; Batch Dumpers; Carpenter Tenders; Cleaning Lumber; Cofferdam Workers plus depth pay; Deck Hand, Dredge Hand & Shore Laborer; Driving of Stakes; Stringlines for all machinery; Fencing Laborers; Firemen or Salamander Tenders; Fireproofing Fire Shop Laborers; Form Handlers; Gravel Box Men; Dumpmen & Spotters; Laborers w/de-watering systems; Landscapers; Laying Sod; Material Handlers; Pit Men; Plastic Installers; Planting of Trees; Removal of Trees; Rip-Rap Men; Scaffold Workers; Tool Cribmen; Track Laborers; Unloading Explosives; Unloading & Carrying Lath; Unloading & Carrying of Re-Bars; Wrecking, Dismantling Buildings; Wallmen & Housemovers; Wrecking Laborers

Semi-Skilled - Asphalt Workers with Machine; Asphalt Raker & Layers; Cement Handlers; Cement Silica, Fly Ash, Lime & Plasterers, Handlers (Bulk or Bag); Chain Saw; Chloride Handlers; Concrete Workers (Wet); Grade Checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing; Kettle Tar Men; on Concrete Paving, Placing, Cutting & Tying of Reinforcing; Signal Man on Crane; Tank Cleaners; Tunnel Tenders in Free Air

Skilled - Air Tamping Hammerman; Caisson Worker plus depth pay; Concrete Burning Machine Operator; Concrete Saw Operator; Coring Machine Operator; Curb Asphalt Machine Operator; Gunnite Nozzle Men; Jackhammer & Drill Operators; Laborers handling Masterplate or similar materials; Laborers Tending Masons with hot material or where foreign materials are used for wet concrete or handling of Building Materials; Multiple Concrete Duct - Leadman; Plasterer Tenders; Ready Mix Scaleman, Portable or Temporary Plant; Screenman on Asphalt Pavers; Steel Form Setters (Street & Highway); Vibrator Operators; Cutters, Burners & Torchmen.

POWER EQUIPMENT OPERATORS

Class I - Asphalt Plant Engineer; Asphalt Screed Man; Apsco Concrete Spreaders; Asphalt Pavers; Asphalt Rollers on Bituminous Concrete; Athey Loaders; Backfillers; Crane Type Backhoes; Cableways; Cherry Pickers; Clam Shell; C.M.I. & Similar Type Autograde Formless Paver, Autograde Placer & Finisher; Concrete Breakers; Concrete Plant Operators; Concrete Pumps; Cranes; Derricks; Derrick Boats; Draglines; Earth Auger Boring Machines; Elevating Graders; Engineers on Dredge; Gravel Processing Machines; Head Equipment Greasers; High Lift or Fork Lifts; Hoist w/two Drums or Two or More Loadlines; Locomotives;

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POWER EQUIPMENT OPERATORS (CONT'D)

Mechanics; Motor Graders or Auto Patrols; Operators or Levelman on Dredges; Operators Power Boat; Operators Pug Mill (Asphalt Plants); Orange Peels; Overhead Cranes; Paving Mixers; Pile-drivers; Pipe Wrapping & Painting Machines; Push Dozers, or Push Cats; Rock Crushers; Ross Carriers or Similar Machines; Scoops; Skimmer 2 cu. yds., cap. & under; Sheep Foot Roller (Self-propelled); Shovels; Skimmer Scoops; Test Hole Drilling Machines; Tower Cranes; Tower Machines; Tower Mixers; Track Type & Loaders; Track Type Fork Lifts or High Lifts; Track Jacks & Tampers; Tractors; Sideboom; Trenching Machines; Ditching Machine; Tunnel Luggers; Wheel Type End Loaders; Winch Cat; Scoops (All or Tournapull)

Class II - Asphalt Boosters & Heaters; Asphalt Distributors; Asphalt Plant Fireman; Building Elevator; Bull Floats or Flexplanes; Concrete Finishing Machines; Concrete Saw, Self-propelled; Concrete Spreader Machines; Gravel or Stone Spreaders, Power Operated; Hoist Automatic; Hoist w/1 Drum & 1 Load Line; Oiler on 2 Paving Mixers when used in Tandem Boom or Winch Truck; Post Hole Diggers, Mechanical; Road or Street Sweeper-Self-propelled; Scissors Hoist; Seaman Tiller; Straw Machine; Vibratory Compactor; Well Drill Machines

Class III - Air Compressor*; Air Compressors, Track or Self-Propelled; Bulk Cement Batching Plants; Conveyors*; Concrete Mixers (except plant, paver, tower); Firemen; Generators*; Greasers; Light Plants*; Mechanical Heaters*; Oilers; Power Form Graders; Power Sub-Graders; Pug Mills, when used for other than Asphalt Operation; Rollers (except Bituminous Concrete); Tractors w/o Power Attachments Regardless of size or type; Truck Crane Oiler & Driver 1 (man); Vibratory Hammer; Water Pumps*; Welding Machines (one 300 amp. or over*); Welding Machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANT OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

TRUCK DRIVERS

Group I - Drivers on 2 Axles hauling less than 9 tons; Air Compressor & Welding Machine incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site; & Truck Driver Tenders

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TRUCK DRIVERS (CONT'D)

Group II - 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

Group III - 2, 3, or 4 Axles hauling 16 tons or more; 5-Axles or more combination units; Mechanics & Working Foreman; & Water Pulls

Group IV - Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; & G-Christmas Day

FOOTNOTES:
a. Employer contributes 8% of regular rate to vacation pay credit for employee who has worked in business more than 5 years and 6% of regular hourly rate for employee who has worked in business less than 5 years
b. 7 Paid Holidays: A through G
c. $25.00 per year
d. 3% of gross earnings to SASMI
e. $51.00 per week per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: WARREN
DECISION NUMBER: KY82-1062 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY80-1089, dated August 15, 1980, in 45 FR 54613.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (Does not include single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.10	2.41
BOILERMAKERS	18.45	2.715
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	13.05	1.45
CARPENTERS, LATHERS, & SOFT FLOOR LAYERS	11.90	1.65
CEMENT MASONS & PLASTERERS	13.50	.01
ELECTRICIANS & CABLE SPLICERS	13.95	.55+3%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.96	2.465+a
Helpers	11.17	2.465+a
Probationary helpers	7.93	
GLAZIERS	12.50	1.12+b
IRONWORKERS	12.85	2.07
LABORERS:		
Group 1	11.20	1.25
Group 2	11.35	1.25
Group 3	11.70	1.25
LINE CONSTRUCTION:		
Linemen, line truck, hole digger, & cable splicer	13.95	.55+3%
Groundmen - truck drivers with winch	11.86	.55+3%
Groundmen - truck drivers	11.16	.55+3%
MARBLE, TERRAZZO, & TILE FINISHERS	11.25	
MILLWRIGHTS	14.85	2.60
PAINTERS:		
Brush & Roller	11.10	1.30
Spray work, drywall finisher	11.35	1.30
Structural steel, swing stage & chair, & motor stage	11.45	1.30
Paperhanger	11.60	1.30

	Basic Hourly Rates	Fringe Benefits
PAINTERS (Cont'd.):		
Sandblasting	$11.85	1.30
PILEDRIVERMEN	12.15	1.65
PIPEFITTERS	17.15	3.07
PLUMBERS:		
Contracts $100,000 or less	10.90	3.30
Contracts over $100,000	16.23	3.30
POWER EQUIPMENT OPERATORS:		
CLASS A	14.77	2.13
CLASS B	12.03	2.13
CLASS C	11.26	2.13
ROOFERS	9.95	1.46
SHEET METAL WORKERS	16.18	3.488
SPRINKLER FITTERS	16.47	2.83
TRUCK DRIVERS:		
Truck tender	11.43	c + d
Driver, 3 tons & under, greaser, tire changer, & mechanic helper	11.55	c + d
Driver, over 3 tons, semi-trailer or pole trailer, dump truck, tandem axle, farm tractor when used to pull building material or equipment	11.66	c + d
Driver, concrete mixer truck (all types, hauling only on jobsites)	11.73	c + d
Driver, Euclid & other heavy earth moving equipment & low boy, winch truck & A-frame & monorail truck when used to transport building materials	11.83	c + d
Mechanics	11.73	c + d

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; Vacation Pay Credit: Employer contributes 8% of the basic hourly rate of employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.
b. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.
c. Employer contribution of $61.50 per week per employee whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period.
d. Paid Vacation of 40 hours to any employee who has been regularly employed on a project for one year and who has worked a minimum of 1,200 hours during the year, and two weeks paid vacation to any employee who has completed 3 years employment on a project and who has worked 1,200 since their 2nd anniversary date.

CLASSIFICATION DEFINITIONS - LABORERS:

Group 1 - General laborers, wrecking labor on buildings, clearing right-of-way & building site, carpenter tender, truck spotter & dumper, axe & cross cut saw filer, concrete pudler & form stripper.
Group 2 - All power driven tools, hod carrier, mason tender, finisher tender, mortar mixer, jack hammer, vibrator, wagon drill, core drill, test drill, well drill, concrete pump machine, tunnel boring machine, men in tunnel & crib ditch work, signal men, riprap rock setter & handler, asphalt raker, tamper & smoother, pipe layer, grout pump men, chain saw, pipe clearing, doping & wrapping, swamper & straight cable hooking, cement gun, grade checker machine excavating, batch plant scale man, sand hog free air, sand hog compressed air, cutting torch man on salvage work, road form setter, brick slinger, hand spiker, power buggy, handling of creosote material, sandblaster, curing of concrete & apply hardner, air & gas tamper, concrete saw, power post hole digger & green cut man on concrete work.
Group 3 - Powderman, blaster.

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cable way, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge operator, dredge engineer, elevating grader & all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2-drums or more), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, Orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height & except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumcrete, Ross Carrier, boom, tail boom rotary drill, hydro hammer, mucking machine rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German, & other types), hydro crane, backfiller, gurries, sub-grader.
CLASS B - All air compressors (over 900 CFM), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 HP & over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair & road widening trencher, farm tractor with attachments (except backhoe, high lift & end loader), elevator (when used to hoist building materials), hoisting engine (1-drum or buck hoist), fork lift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.
CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTIES: FAYETTE & FRANKLIN
DECISION NUMBER: KY82-1066 DATE: DATE OF PUBLICATION
Supersedes Decisions Number KY81-1275 & KY81-1276, dated August 14, 1981, in 46 FR 41323 & 41321.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes & apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.25	2.45
BOILERMAKERS	18.45	2.715
BRICKLAYERS & STONE MASONS	13.30	1.20
CARPENTERS & SOFT FLOOR LAYERS	14.40	1.95
CEMENT MASONS	15.00	
ELECTRICIANS	16.41	2.00+3%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.96	2.465+a
Helpers	11.17	2.465+a
Probationary helpers	7.93	
GLAZIERS	15.45	
IRONWORKERS	14.20	4.20
LABORERS:		
Group 1	10.45	1.70
Group 2	10.85	1.70
Group 3	11.05	1.70
Group 4	11.15	1.70
Group 5	11.65	1.70
Group 6	11.95	1.70
LINE CONSTRUCTION:		
Linemen & Equipment Operators	16.85	.70+8%
Cable splicers	17.10	.70+8%
Groundmen - Truck drivers	13.48	.70+8%
Groundmen	12.64	.70+8%
MARBLE, TILE, & TERRAZZO WORKERS	12.15	1.20
MILLWRIGHTS & PILEDRIVERMEN	14.90	1.95

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush, Drywall finishers & tapers, & Paperhangers	$12.37	.71
Steeple jack work, window jack work, & work in enclosed buildings over 35' in height from permanent work area	12.87	.71
Sandblast & Spray	13.12	.71
PLUMBERS & PIPEFITTERS:		
Fayette County	15.93	2.15
Franklin County (West 3/4 of Co., including the City of Frankfurt):		
Pipefitters	18.00	3.07
Plumbers -		
Contracts $100,000 or less	11.70	3.30
Contracts over $100,000	17.08	3.30
Remainder of Franklin Co.	16.93	2.15
POWER EQUIPMENT OPERATORS:		
CLASS A	14.77	2.13
CLASS B	12.03	2.13
CLASS C	11.26	2.13
ROOFERS - FAYETTE CO. ONLY	11.90	1.15
SHEET METAL WORKERS	16.18	3.488
SPRINKLER FITTERS	16.47	2.83

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE:

a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, & Christmas Day; Vacation Pay Credit: Employer contribution of 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

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CLASSIFICATION DEFINITIONS - LABORERS:

Group 1 - General laborers, water boys, concrete pouring, concrete form stripping & wrecking, hand digging & backfilling of ditches, clearing of right-of-ways & building sites, wood sheeting & shoring, signal man for concrete bucket, & general cleaning.
Group 2 - All air tool operators, air track drills, asphalt rakers, barco tampers, batch plant & scale man, chain saw, concrete saw, electric hand grinder, all electric brush & chipping hammers, fork lift operators, form setters (street & highway), gunnite laborers, hand spiker, introflax burning rod, joint makers, mason tenders, pipe layers, plasterer tenders, powderman helpers, power driven Georgia buggies, power posthole digger, railroad laborers, sandblaster laborers, scow man & deck hand, signal man, sweeper & cleaner machines, vibrator operators, walk-behind trenching machines, mortar mixer machines, & water pumpman.
Group 3 - Gunnite nozzleman & gunnite nozzle machine operator, sand blaster nozzleman, concrete or grout pump man, plaster pump man.
Group 4 - Powderman & blaster.
Group 5 - Caisson holes (6 ft. & over) pressure & free air including tools.
Group 6 - Tunnel man & tunnel sand miner, cofferdam (pressure & free air), sandhog or mucker (pressure or free air).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cable way, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge operator or engineer, elevating grader & all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2-drums or more), locomotive, motor scraper, carryall scoop, bulldozer, heavy duty welder, mechanic, Orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift(except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader.
CLASS B - All air compressors (over 900 CFM), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor 50HP & over, bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair & road widening trencher, farm tractor (with attachments except backhoe, highlift, & endloader), elevator (when used for hoisting any building material), hoisting engine (1-drum or buck hoist), fork lift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.
CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTIES: HARDIN, JEFFERSON, & MEADE

DECISION NUMBER: KY82-1067 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY81-1277, dated August 21, 1981, in 46 FR 42601.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.25	2.45
BOILERMAKERS	18.45	2.715
BRICKLAYERS & STONE MASONS	13.84	1.51
CARPENTERS & LATHERS	13.35	1.88
CEMENT MASONS	12.64	2.08
ELECTRICIANS	16.14	1.25+13⅜%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.96	2.465+a
Helpers	11.17	2.465+a
Probationary helpers	7.98	
IRONWORKERS	14.20	4.20
LABORERS:		
Group 1	10.70	1.28
Group 2	10.90	1.28
Group 3	11.05	1.28
Group 4	11.20	1.28
Group 5	11.90	1.28
LINE CONSTRUCTION:		
Linemen, Line truck operators, & Mechanized Equipment operators	16.14	1.25+13⅜%
Backhoe operator	12.92	1.25+13⅜%
Trencher operator	12.12	2.50+3⅜%
Truck driver	11.31	2.50+3⅜%
Groundmen	10.02	2.50+3⅜%
MARBLE, TERRAZZO, & TILE FINISHERS	11.25	
MARBLE, TERRAZZO, & TILE WORKERS	13.80	1.50
MILLWRIGHTS	14.85	2.60
PAINTERS:		
Area 1 - within a 35 mile radius of the Jefferson County Courthouse in Louisville, Kentucky:		
Brush, roller, drywall painting, finishing, & taping, & paperhanging	11.07	1.18
Steeple jack work, boatswain chair, safety-belt work, steamcleaning, sandblasting, exterior stage work & window jack work over 50 ft. in height	11.42	1.18
Spray	11.52	1.18

PAINTERS (Cont'd.):	Basic Hourly Rates	Fringe Benefits
Area 1 - Repaint work:		
Brush, roller, drywall painting, finishing, & taping, & paperhanging	$10.32	1.18
Spray	10.77	1.18
Area 2 - over a 35 mile radius from the Jefferson County Courthouse:		
Brush, roller, paperhanging, drywall painting, finishing, & taping	11.42	1.18
Steeple jack work, boatswain chair, safety-belt work, steamcleaning, sandblasting, exterior stage work & window jack work over 50 ft. in height	11.77	1.18
Spray	11.87	1.18
Area 2 - Repaint work:		
Brush, roller, paperhanging, drywall finishing, painting, & taping	10.67	1.18
Spray	11.12	1.18
PILEDRIVERMEN	13.60	1.88
PLASTERERS	14.85	.77
PLUMBERS & PIPEFITTERS:		
Area 1 - Jefferson County:		
Pipefitters	17.15	3.07
Plumbers:		
Contracts $100,000 or less	10.90	3.30
Contracts over $100,000	16.23	3.30
Area 2 - Hardin (Northern portion of County up to but not including Elizabethtown) & Meade Counties:		
Pipefitters	17.75	3.07
Plumbers:		
Contracts $100,000 or less	11.45	3.30
Contracts over $100,000	16.83	3.30
Area 3 - Hardin (Remainder of County) County:		
Pipefitters	18.00	3.07
Plumbers:		
Contracts $100,000 or less	11.70	3.30
Contracts over $100,000	17.08	3.30

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
CLASS A	$14.77	2.13
CLASS B	12.03	2.13
CLASS C	11.26	2.13
SHEET METAL WORKERS	16.18	3.488
SOFT FLOOR LAYERS	13.35	1.88
SPRINKLER FITTERS	16.47	2.83
TRUCK DRIVERS:		
Truck tender	11.43	b + c
Driver, 3 tons & under, greaser, tire changer, & mechanic helper	11.55	b + c
Driver, over 3 tons, semi-trailer or pole trailer, dump truck, tandem axle, farm tractor when used to pull building material or equipment	11.66	b + c
Driver, concrete mixer truck (all types, hauling only on jobsites)	11.73	b + c
Mechanics	11.73	b + c

TRUCK DRIVERS (Cont'd.)	Basic Hourly Rates	Fringe Benefits
Driver, Euclid & other heavy earth moving equipment & lowboy, winch truck & A-frame & monorail truck when used to transport building materials	$11.83	b + c

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; Vacation Pay Credit: Employer contributes 8% of the basic hourly rate of employees with 5 years or more service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

b. Employer contribution of $61.50 per employee per week whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period.

c. Paid Vacation of 40 hours to any employee who has been regularly employed on a project for one year and who has worked a minimum of 1,200 hours during the year, and two weeks paid vacation to any employee who has completed 3 years employment on a project and who has worked 1,200 hours since their 2nd anniversary date.

CLASSIFICATION DEFINITIONS - LABORERS:

Group 1 - Laborers - general, concrete form stripping & wrecking, carpenter tender, cement finisher tender, placing of concrete, wrecking of buildings, hand digging & hand backfilling of ditches, hand clearing of right-of-ways & building sites, curing of concrete & application of hardner, handling of chemically treated lumber, installing wood sheeting & shoring, signal laborers on concrete bucket & masonry work, cleaning & moving of general purpose materials, general cleanup of scrap & debris, & mobile sweeper.
Group 2 - Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air, diesel, electric, & gasoline), wagon drill, pipe layer, wall man, treatment of exposed concrete (chip, bush hammer & rub), concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, & asphalt raker.
Group 3 - Air track driller, mason tender, side rail setter (metal), stack man, fork lift operators (masonry & plastering contractors only).
Group 4 - Powderman, introflax burning rod, gunnite nozzle man operator, sewer, tunnel laborer (free air), sand hog or mucker (free air).
Group 5 - Hole man drilled piers, augured caisson, sand miner (tunnel free air), caisson workers.

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge operator, dredge engineer, elevating grader & all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, Orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumperete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader.
CLASS B - All air compressors (over 900 CFM), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 HP & over), ball float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair & road widening trencher & farm tractor with attachments except backhoe, highlift and end loader, elevator (when used for hoisting any building material), hoisting engine (1-drum or buck hoist), fork lift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.
CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steereman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: BOYD
DECISION NUMBER: KY82-1065 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY81-1299, dated October 16, 1981, in 46 FR 51160.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes & apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$19.40	1.73
BOILERMAKERS	16.45	4.715
BRICKLAYERS & STONE MASONS	15.36	2.24
CARPENTERS	14.19	2.35
CEMENT MASONS & PLASTERERS	11.92	.60
ELECTRICIANS:		
Wiremen	17.32	2.76+3%
Cable splicers	18.19	2.76+3%
ELEVATOR CONSTRUCTORS:		
Mechanics	17.095	2.465+a
Helpers	11.97	2.465+a
Probationary helpers	8.55	
GLAZIERS	13.83	1.01
IRONWORKERS	17.23	3.11
LABORERS:		
Group 1	11.20	1.25
Group 2	11.35	1.25
Group 3	11.37	1.25
Group 4	11.40	1.25
Group 5	11.45	1.25
Group 6	11.70	1.25
Group 7	11.90	1.25
Group 8	12.40	1.25
LINE CONSTRUCTION:		
Linemen	18.31	2.20+3%
Cable splicers	20.14	2.20+3%
Mechanical equipment operators	14.65	2.20+3%
Groundmen	11.90	2.20+3%

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush, roller, drywall finishers, tapers, mittens or rags, paperhangers, sandblast, steamcleaning, & drywall machine operators	$12.76	2.96
PILEDRIVERMEN	14.55	2.35
PLUMBERS & PIPEFITTERS:		
Area 1 - within a 5 mile radius of 17th St. & Winchester Ave., Ashland, Ky.	15.71	4.30
Area 2 - over 5 miles & within a 15 mile radius of 17th St. & Winchester Ave., Ashland, Ky.	15.91	4.30
Area 3 - over 15 miles % within a 30 mile radius of 17th St. & Winchester Ave., Ashland, Ky.	16.11	4.30
POWER EQUIPMENT OPERATORS:		
CLASS A	14.77	2.13
CLASS B	12.03	2.13
CLASS C	11.26	2.13
ROOFERS:		
New Construction	13.50	.65
Re-roofing	9.30	.65
SHEET METAL WORKERS	16.18	3.488
SPRINKLER FITTERS	16.47	2.83

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE 'a': Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, & Christmas Day; Vacation Pay Credit: Employer contribution of 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

CLASSIFICATION DEFINITIONS - LABORERS:
Group 1 - General laborers, carpenter tenders, cement finisher tenders, concrete men, wreckers & wall men, water boys, handlers of empty oxygen & acetylene bottles.
Group 2 - Hod carriers, mortar men, lather & plasterer tenders.
Group 3 - Wrapping, heating, & applying hot & cold tar on all pipes, applying tape on pipes, & operating tester.
Group 4 - Deck hand & scow man.
Group 5 - Jackhammer, power tools (electrical, gas, or air power), burning torch wagon, drill operators, handling of creosote material, signal men, & asphalt rakers.
Group 6 - Rock & powder men.
Group 7 - Sand hog or mucker, & tunnel miners.
Group 8 - Caisson workers

CLASSIFICATION DEFINITION - POWER EQUIPMENT OPERATORS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge operator, dredge engineer, elevating grader & all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2-drums or more), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, Orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoop mobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader.

CLASS B - All air compressors (over 900 CFM), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50HP & over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on greasing facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair & road widening trencher, farm tractor (with attachments except backhoe, highlift, or end loader), elevator when used for hoisting any building material, hoisting engine (1-drum or buck hoist), fork lift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY
DECISION NUMBER: KY82-1064
COUNTY: McCRACKEN
DATE: DATE OF PUBLICATION

Supersedes Decision Number KY81-1300, dated October 16, 1981, in 46 FR 51161.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.81	2.00
BOILERMAKERS	18.45	2.715
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	13.59	1.45
CARPENTERS & LATHERS	15.20	.72
CEMENT MASONS	14.05	1.35
ELECTRICIANS:		
Wiremen	15.23	.65+13%
Cable splicers	15.48	.65+13%
GLAZIERS	13.085	2.06
IRONWORKERS	15.05	2.20
LABORERS:		
Group 1	11.20	1.25
Group 2	11.40	1.25
Group 3	11.70	1.25
LINE CONSTRUCTION:		
Linemen & Equipment operators	14.25	.70+13%
Cable splicers	14.50	.70+13%
Groundmen - Truck drivers	10.69	.70+13%
Groundmen	10.40	.70+13%
MILLWRIGHTS & PILEDRIVERMEN	15.70	.72
PAINTERS:		
Brush & Roller	11.60	.80
Drywall finishers & Paperhangers	12.10	.80
Power tools & Sandblast	12.50	.80
PLUMBERS & PIPEFITTERS	17.51	2.13

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
CLASS A	$14.77	2.13
CLASS B	12.03	2.13
CLASS C	11.26	2.13
ROOFERS	11.55	1.10
SHEET METAL WORKERS	16.18	3.488
SPRINKLER FITTERS	16.47	2.83

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

CLASSIFICATION DEFINITIONS - LABORERS:

Group 1 - General laborers, wrecking labor on buildings, clearing right-of-way & building site, carpenter tender, truck spotter & dumper, axe & cross cut saw filer, concrete pudler & form stripper.
Group 2 - All power driven tools, hod carrier, mason tender, finisher tender, mortar mixer, jack hammer, vibrator, wagon drill, core drill, test drill, well drill, concrete pump machine, tunnel boring machine, men in tunnel & crib ditch work, signal men, riprap rock setter & handler, asphalt raker, tamper & smoother, pipe layer, grout pump men, chain saw, pipe clearing, doping & wrapping, swamper & straight cable hooking, cement gun, grade checker machine excavating, batch plant scale man, sand hog free air, sand hog compressed air, cutting torch man on salvage work, road form setter, brick slinger, hand spiker, power buggy, handling of creosote material, sandblaster, curing of concrete & apply hardner, air & gas tamper, concrete saw, power post hole digger & green cut man on concrete work.
Group 3 - Powderman, blaster.

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cable way, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge operator, dredge engineer, elevating grader & all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2-drums or more), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, Orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height & except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pipepete, Ross Carrier, boom, tail boom rotary drill, hydro hammer, mucking machine rock spreader attached to equipment, scooprobile, KeCal loader, tower cranes (French, German, & other types), hydro crane, backfiller, gurries, sub-grader.
CLASS B - All air compressors (over 900 CFM), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 HP & over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, Whirley oiler, self-propelled compactor, tractair & road widening trencher, farm tractor with attachments (except backhoe, high lift & and loader), elevator (when used to hoist building materials), hoisting engine (1-drum or back hoist), fork lift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.
CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, drill helper.

SUPERSEDEAS DECISION

STATE: Louisiana

PARISHES: ZONE 1-Jefferson & Orleans; ZONE 2-Bossier & Caddo; ZONE 3-Calcasieu; ZONE 4-Beauregard, Cameron, & Jefferson Davis; ZONE 5-Allen; ZONE 6-Plaquemines; ZONE 7 - St. Bernard; ZONE 8-St. Charles

DECISION NO.: LA82-4050 DATE: Date of Publication

Supersedes Decision No. LA82-4023, dated 5/7/81 in 47 FR 19878.

DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS:		
ZONES 1, 6, 7 & 8	$14.15	1.69
ZONE 2	12.80	1.60
ZONES 3, 4 & 5	15.45	1.73
CARPENTERS & PILEDRIVERMEN:		
ZONE 1	13.60	2.06
ZONE 2	12.52	1.48
ZONE 3	13.69	1.55
ZONE 4	8.75	1.40
ZONE 5	10.75	1.40
ZONE 6	10.75	2.06
ZONES 7 & 8	11.75	2.06
CEMENT MASONS:		
ZONE 1	12.82	1.48
ZONE 2	12.20	.80
ZONE 3	13.96	
ZONE 4	7.75	
ZONE 5	9.75	
ZONE 6	9.75	1.48
ZONES 7 & 8	10.75	1.48
ELECTRICIANS:		
ZONES 1, 6, 7 & 8:		
Electricians	15.70	1.35+3%
Cable splicers	15.70	1.35+3%
ZONE 2:		
Electricians	14.60	2.40+4%
Cable splicers	15.10	2.40+4%
ZONES 3, 4 & 5:		
Electricians	17.70	1.50+3-5/10%
Cable splicers	18.20	"
IRONWORKERS:		
ZONE 1	13.74	2.08
ZONE 2	12.50	2.36
ZONE 3	13.98	1.62
ZONE 4	8.75	1.62
ZONE 5	10.75	1.62
ZONE 6	10.75	2.08
ZONES 7 & 8	11.75	2.08
LABORERS:		
ZONE 1 - GROUP 1	9.20	.85
GROUP 2	9.40	.85
GROUP 3	9.80	.85
GROUP 4	10.05	.85
ZONE 2 - GROUP 1	8.33	.75
GROUP 2	8.43	.75
GROUP 3	8.88	.75
GROUP 4	9.13	.75
LABORERS (CONT'D):		
ZONE 3 - GROUP 1	$ 9.74	.89
GROUP 2	9.94	.89
GROUP 3	10.29	.89
GROUP 4	10.54	.89
ZONE 4 - GROUP 1	5.75	.75
GROUP 2	5.95	.75
GROUP 3	6.35	.75
GROUP 4	6.50	.75
ZONE 5 - GROUP 1	7.25	.75
GROUP 2	7.45	.75
GROUP 3	7.85	.75
GROUP 4	8.10	.75
ZONES 6 & 8 - GROUP 1	7.25	.85
GROUP 2	7.35	.85
GROUP 3	7.80	.85
GROUP 4	8.00	.85
ZONE 7 - GROUP 1	7.75	.85
GROUP 2	7.95	.85
GROUP 3	8.35	.85
GROUP 4	8.60	.85
LINE CONSTRUCTION:		
ZONES 1, 6, 7 & 8:		
GROUP 1 - Linemen	15.70	1.35+3%
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	75%JR	1.35+3%
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)	65%JR	1.35+3%
GROUP 4 - Op. using truck without winch	45%JR	1.35+3%
GROUP 5 - Groundmen	50%JR	1.35+3%
ZONE 2:		
GROUP 1 - Linemen; ops.	14.60	2.40+3-3/4%
GROUP 2 - Cable splicer	15.10	"
GROUP 3 - Groundmen	12.60	"
ZONES 3, 4 & 5:		
GROUP 1 - Linemen; ops.	17.70	1.50+3-1/10%
GROUP 2 - Cable splicer	18.20	"
GROUP 3 - Groundmen	15.70	"

DECISION NO. LA82-4050 PAGE 2

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
ZONE 1, 6, 7 & 8:		
GROUP 1 - Painters	$12.055	1.895
GROUP 2 - Spray	12.43	1.895
GROUP 3 - Industrial	14.005	1.895
ZONE 2 - All painters	11.40	1.10
ZONES 3, 4 & 5 (Allen Par. except northeast corner):		
GROUP 1 - Brush	15.395	.40
GROUP 2 - Spray, sandblasting, hydroblasting, spider op., rubberizing & pyroflexing, steam jennies	15.76	.40
Allen Par. (northeast most corner, north of Rt. 10):		
GROUP 1 - Painters	10.75	
GROUP 2 - Spray	11.60	
GROUP 3 - Industrial	12.10	
PLUMBERS & PIPEFITTERS:		
ZONES 1, 6, 7 & 8	14.90	2.43
ZONE 2	13.94	3.04
ZONES 3, 4 & 5	16.98	2.00
POWER EQUIPMENT OPERATORS:		
ZONES 1, 6, 7 & 8:		
GROUP 1	13.36	1.95
GROUP 2	13.61	1.95
GROUP 3	13.11	1.95
GROUP 4	11.54	1.95
GROUP 5	11.09	1.95
GROUP 6	9.81	1.95
GROUP 7	8.38	1.95
GROUP 8	11.14	1.95
GROUP 9	11.39	1.95
GROUP 10	8.63	1.95
ZONE 2 - GROUP 1	12.28	1.95
GROUP 2	12.53	1.95
GROUP 3	12.03	1.95
GROUP 4	10.72	1.95
GROUP 5	10.02	1.95
GROUP 6	8.74	1.95
GROUP 7	7.77	1.95
GROUP 8	10.35	1.95
GROUP 9	10.62	1.95
GROUP 10	8.35	1.95
ZONE 3 - GROUP 1	13.01	1.95
GROUP 2	13.26	1.95
GROUP 3	12.76	1.95
GROUP 4	11.22	1.95
GROUP 5	10.51	1.95
GROUP 6	9.23	1.95
GROUP 7	7.77	1.95
GROUP 8	10.82	1.95
GROUP 9	11.07	1.95
GROUP 10	8.02	1.95
ZONE 4 (EXCLUDING BEAUREGARD PARISH) - GROUP 1	$ 9.95	1.95
GROUP 2	10.20	1.95
GROUP 3	9.70	1.95
GROUP 4	8.52	1.95
GROUP 5	7.94	1.95
GROUP 6	6.77	1.95
GROUP 7	6.21	1.95
GROUP 8	8.21	1.95
GROUP 9	8.46	1.95
GROUP 10	6.46	1.95
ZONE 5 (INCLUDING BEAUREGARD PARISH) - GROUP 1	9.45	1.95
GROUP 2	9.70	1.95
GROUP 3	9.20	1.95
GROUP 4	8.02	1.95
GROUP 5	7.44	1.95
GROUP 6	6.27	1.95
GROUP 7	5.71	1.95
GROUP 8	7.71	1.95
GROUP 9	7.96	1.95
GROUP 10	5.96	1.95
SHEET METAL WORKERS:		
ZONES 1, 6, 7 & 8	14.25	2.32+3%
ZONE 2	13.04	1.62+3%
ZONE 3	14.75	1.74+3%
ZONES 4 & 5	14.12	1.51
TRUCK DRIVERS:		
ZONE 1 - GROUP 1	9.53	.70
GROUP 2	9.66	.70
GROUP 3	9.72	.70
GROUP 4	9.80	.70
GROUP 5	9.99	.70
ZONE 2 - GROUP 1	9.74	
GROUP 2	9.79	
GROUP 3	10.03	
GROUPS 4 & 5	10.65	
ZONE 3 - GROUP 1	10.01	.70
GROUPS 2,3,4&5	10.48	.70
ZONE 4	6.75	.70
ZONE 5	8.75	.70
ZONE 6	8.75	.70
ZONES 7 & 8	9.75	.70

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. LA82-4050 PAGE 3

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Laborers, including but not limited to foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer op., jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stonemason tenders, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - 60 ton crane & over; crane with 125 ft. boom
GROUP 2 - Crane with 175 ft. boom
GROUP 3 - Crane all types; derricks; deck winches (2); hi-ho & similar type equip.; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equip. welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farmtype; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farmtype, 1 cu. yd. or over; shovels & backhoes, all types & equivalent equip.; piledrivers; sideboom cats; A-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork lifts over 10 ton capacity; foundation drilling machines
GROUP 4 - 2 drums stabiliziers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power sub-graders; 2 tractor (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent equip.; bullfloats & equivalent equip.; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
GROUP 5 - Single drum stabiliziers; concrete mixer under 1 yd.; spray curing machines; roller on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher op.; concrete jointing machines; concrete saw; tack machines & equivalent equip.; pumpcrete; electric elevator (inside); oiler-driver; farmtype rubber tired tractor, with attachment, except backhoes; kolum buff & similar equip.; fork lifts 10 ton capacity & under; outboard crew boats
GROUP 6 - Batch plant operator
GROUP 7 - Oiler
GROUP 8 - Firemen
GROUP 9 - Fireman operating steam valve
GROUP 10 - Oiler on crane using air to drive piles

TRUCK DRIVERS CLASSIFICATION DEFINITIONS
GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1-1/2 tons to & including 2 tons (exclusive of dump trucks)
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: ISSAQUENA, SHARKEY, SUNFLOWER, & WASHINGTON
DECISION NUMBER: MS82-1069 DATE: DATE OF PUBLICATION
Supersedes Decision No.: MS81-1175 dated January 30, 1981 in 46 FR 10093.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
A/C & HEATING MECHANICS	$ 6.63		PLUMBERS & PIPEFITTERS	$ 8.39	
BRICKLAYERS	8.00		POWER EQUIPMENT OPERATORS:		
CARPENTERS	6.18		Bulldozer	5.00	
CEMENT MASONS	6.00		Crane	9.35	
ELECTRICIANS	10.20		Grader	5.50	
GLAZIERS	5.41		ROOFERS	6.00	
IRONWORKERS	7.21		SHEET METAL WORKERS	6.31	
LABORERS	3.84		SOFT FLOOR LAYERS	7.00	
PAINTERS, Brush	4.00		TILE SETTERS	7.00	
PLASTERERS	6.00		TRUCK DRIVERS	3.84	
			WELDERS - Rate for Craft		

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTY: YALOBUSHA
DECISION NUMBER: MS82-1070 DATE: DATE OF PUBLICATION
Supersedes Decision No.: MS81-1178 dated January 30, 1981 in 46 FR 10095.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 7.50		PLUMBERS	$ 5.50	
CARPENTERS	6.00		ROOFERS	4.40	
CEMENT MASONS	5.00		SHEET METAL WORKERS	4.05	
DRYWALL HANGERS	5.30		SOFT FLOOR LAYERS	5.75	
ELECTRICIANS	5.65		TILE SETTERS	5.75	
GLAZIERS	4.00		WELDERS - Rate for Craft		
LABORERS	3.35				
PLASTERERS	5.15				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTY: HINDS
DECISION NUMBER: MS82-1068 DATE: DATE OF PUBLICATION
Supersedes Decision No.: MS81-1286 dated September 4, 1981 in 46 FR 44644.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$13.54	1.61
BOILERMAKERS	14.50	2.92
BRICKLAYERS:		
Bricklayers	12.25	.80
Stone,Block, & Marble Masons	12.25	.80
Caulkers,Pointers, & Cleaners	12.25	.80
Tile & Terrarro Setters	12.10	.80
CARPENTERS:		
Carpenters	11.50	1.00
Power Saw Operators (1 hp or over)	11.75	1.00
Fiber Glass Insulation Application	11.65	1.00
Millwrights	12.10	1.00
Piledrivermen	11.85	1.00
CEMENT MASONS:		
Cement Masons	10.50	.80
Float Machine Operator	10.75	.80
ELECTRICIANS:		
Electricians	13.55	3% +.89
Cable Splicers	12.80	3% +.89
ELEVATOR CONSTRUCTORS	12.08	2.69+ a + b
GLAZIERS	9.84	.02
IRONWORKERS	13.05	1.59
LABORERS:		
Laborers	6.65	.50
Wrecking & Demolition	6.65	.50
Mason Tenders	6.80	.50
Plasterer Tenders	6.80	.50
Pipelayers	6.80	.50
Mortar Mixers	6.90	.50
Mechanical Tools,Motorized (GA) Buggy Operators	6.90	.50
LATHERS	8.65	.01
LINE CONSTRUCTION:		
Linemen	13.43	5½%+c+ .65
Cable Splicers	13.73	5½%+c+ .65
Groundmen	8.13	5½%+c+ .65

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush & Roller	$ 8.50	.60
Spray	9.00	.60
Sandblast	9.50	.60
PLASTERERS	10.35	1.10
PLUMBERS,STEAMFITTERS, & PIPEFITTERS	12.50	2.05
ROOFERS:		
Roofers	11.70	.40
Kettlemen	8.85	.40
Paper Roller	8.85	.40
SHEET METAL WORKERS	14.05	1.05
SPRINKLER FITTERS	14.57	2.83
POWER EQUIPMENT OPERATORS:		
GROUP I	$ 12.93	.95
GROUP II	12.05	.95
GROUP III	11.78	.95
GROUP IV	11.00	.95
GROUP V	8.97	.95

Boom including jib:
$ .50 above regular rate-100ft to 200ft.
$1.00 above regular rate-201ft to 300ft
$2.00 above regular rate-301ft to 400ft
$3.00 above regular rate-401ft to 500ft.
$3.25 above regular rate 501ft & above.

FOOTNOTES:

a. Paid holidays: New Year's Day; Memorial Day;Independence Day;Labor Day; Thanksgiving Day;Christmas Day

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee with more than 5 years service; 6% for employees with less than 5 years.

c. One week vacation after one year's service.

DECISION NUMBER: MS82-1068 PAGE TWO.

GROUP I - Engineer operating under air pressure.

GROUP II - Mechanic.

GROUP III - Asphalt Plant,Backhoe,Blacksmith,Boom Tractor,Bulldozer,Central Mixing Plant,Cherry Picker,Clamshell,Crane,Derrick Car,Derrick,Derrick Boat, Dragline,Dredge,Elevating Grader,End Loader,Excavator(power belt),Fork Lift (5 tons & over),Hoists (2 drums in active use),Locomotive Engineer,Marine Engineer(chief),Master Pilot,Mixer-Mobile,Motor Patrol and similar equipment, Paver (21 c.f. or larger),Pile Driver,Recharger,Scoop (skimmer),Scraper, Shovel,Trenching Machine (over 18" bucket line width),Turnapull(DW-10 and similar pull type scrapers),Traxcavator and similar Endloaders,Welder,Welding Machines and Pumps (operating 2 to 6 Machines,Well Driller,Well Point Pumps.

GROUP IV - Asphalt Spreader (bituminous distributor),Asphalt Spreader(bituminous mixer),Backfilling Machine,Conveyor,Drill (earth),Finishing Machine,Fireman, Forklift (over 2 tons and less than 5 tons),Heating Plant,Hoist (one drum), Marine Engineer's Assistant,Mixer Payloader and similar Endloaders,Pilot, Power Generating Plant,Pump (concrete),Roller,Scoopmobile,Tractor (with power take-off),Trenching Machines (19" or smaller bucket line width),Tugboat, Winch Truck and Tractor,Small Rubber Tired with Backhoe Attachment.

GROUP V - Air Compressor,Batch Scale,Deckhand,Forklift (2 tons & under),Form Grader Locomotive Hostler,Motorboat (in or out-board),Oiler,Pump,Roughneck, Scowman,Tractor (with attachments),Welding Machine.

Booms including jib:
$ .50 above regular rate - 100ft to 200ft.
$ .75 above regular rate - 201ft to 300ft.
$1.00 above regular rate - over 300 ft.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: NEW JERSEY
COUNTY: BURLINGTON
DECISION NO.: NJ82-3029
DATE: Date of Publication
Supersedes Decision No. NJ79-3037 dated October 5, 1979 in 44 FR 57629
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family housing and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
AIR CONDITION AND HEATING MECHANICS	8.00				
BRICKLAYERS	11.00				
CARPENTERS	7.00				
CEMENT MASONS	7.25				
DRYWALL-SHEET ROCK INSTALLERS	7.80				
ELECTRICIANS	7.00	.63			
INSULATION MECHANICS	7.56				
IRONWORKERS-ORNAMENTAL	7.50				
LABORERS:					
Laborers	5.49				
Mason Tenders	5.00				
PAINTERS, BRUSH	7.00				
PLUMBERS & PIPEFITTERS	7.00				
SHEET METAL WORKERS	7.75				
DRYWALL-SHEETROCK TAPERS	9.12				
TRUCK DRIVERS	7.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	7.25				
Roller	8.50				
WELDER - RATE FOR CRAFT					

[FR Doc. 82-28229 Filed 10-14-82; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
October 15, 1982

Part III

Department of the Interior

Minerals Management Service

Site Security; Onshore Federal and Indian (Except Osage) Oil and Gas Leases

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 221

Site Security; Onshore Federal and Indian (Except Osage) Oil and Gas Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Interim Rulemaking and request for comments.

SUMMARY: This interim rulemaking provides minimum standards required to be followed on Onshore Federal and Indian (except Osage) oil and gas leases to reduce the circumstances which could facilitate the theft or mishandling of crude oil. The minimum standards have been designed under the basic premise that the primary responsibility for site security rests with those who operate the leases; however, oversight responsibility rests with the Government on behalf of the people of the United States and the appropriate Indian lessors. Final rules will be adopted after considering the comments received on this interim rulemaking.

DATE: These interim rules are effective November 15, 1982. Comments on these interim rules must be received by December 14, 1982.

ADDRESS: Send comments to Associate Director for Onshore Minerals Operations, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 650, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 860-7535, (FTS) 928-7535.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Mr. George E. Campbell, Oil and Gas Sub-District Office, Thermopolis, Wyoming; Mr. Michael F. Reitz, South Central Region, Albuquerque, New Mexico; Mr. Sylvester J. Fisher, Central Region, Denver, Colorado; and Mr. Gerald R. Daniels, Mr. Robert C. Kent, and Mrs. Florence J. Lee of the headquarters office, Reston, Virginia.

On April 21, 1982, the Minerals Management Service (MMS) published a Notice of Intent to propose rulemaking in the **Federal Register** (47 FR 17076). Comments were requested by May 21, 1982, but the comment period subsequently was extended to June 7, 1982.

While the term "site security" is used, the main intent of this rulemaking is to safeguard the production, handling, and storage of crude oil until it is shipped, though it also applies to other hydrocarbons. Therefore, this rulemaking addresses site security in the context of eliminating conditions that could result in the loss of hydrocarbons without a proper accounting. This rulemaking, by establishing minimum standards to be followed on Federal and Indian (except Osage) oil and gas leases, also seeks to establish procedures that will result in the prompt identification of any such losses so that further actions may be initiated to eliminate future occurences

The Notice of Intent posed 12 questions which were intended to gain specific information particularly needed for the development of regulations regarding site security, i.e., the scope of the regulations to be implemented, inspections to be performed, and the severity of sanctions to be imposed if an operator fails to meet the requirements of the regulations. The MMS received 41 comments in response to the notice. Of these comments, 34 were from lessees and operators of Federal and Indian oil and gas leases, 3 from industry associations, 1 from a consultant, 1 from an individual, and 2 from MMS field offices.

One consistent comment made by industry sources was that an effective method of controlling theft would be to require that oil purchasers detail the sources of the oil they purchase, i.e., if the market for stolen oil is eliminated, the thefts will terminate. Another consistent comment by industry was that prosecution, conviction, and sentencing of thieves to the fullest extent of the law would be a more effective deterrent to theft than would be efforts to exclude the thieves from the leases. The MMS also feels that application of these principles would be more effective in deterring oil theft, not only from Federal and Indian leases, but from all domestic onshore leases. However, requiring that sources of the oil purchased be detailed could not be enforced for all onshore domestic production, absent a similar commitment by all of the various States. Further, prosecution of suspected thieves would exceed our statutory authority.

Comments with regard to the 12 specific questions posed indicated the following:

Question 1: Do you currently have a site security plan or plans in effect? If so, please submit with your comments a copy of your plan(s) or provide a synopsis of the major components. Plans or synopses thereof which are submitted will be held confidential on request.

Of 34 operators who responded, 21 had site security plans in effect on a companywide rather than a lease-specific basis, but most were not formally documented; 10 stated they had no plans but relied on Federal and State rules; and 3 advised that plans were in preparation. Synopses of the various companywide plans were provided.

Question 2: Are you experiencing problems with theft or mishandling of crude oil from the Federal and Indian oil and gas leases which you operate? If so, what is the present magnitude of these problems and has there been an increase recently?

The responses were: none (24), nominal (10), and no estimates (7). One respondent advised that thefts are increasing and two advised they are decreasing while the remainder did not respond to the question. Eleven respondents stated that in their opinions reports about the magnitude of the oil theft problem were overblown and have been misunderstood. Most of these commenters questioned the findings of the Linowes Commission and the statements in the MMS Notice of Intent that theft by third parties is a serious problem. Several respondents challenged MMS to provide data as to how much oil is being lost and further questioned the need for any additional regulations. However, the majority of the respondents agreed that (1) there is a theft problem; (2) the operators must accept primary responsibility for addressing the problem; and (3) that regulations in the form of minimum standards should be established to help reduce the thefts. Almost all commenters suggested that regulatory requirements should not be an absolute single requirement, but should be related to the level of risk involved at the sites to be protected.

Question 3: How do you react to a suspected or confirmed incident of theft or mishandling of crude oil which occurs on Federal and Indian leases that you operate? For example, do you report these incidents to local, State, and Federal law enforcement agencies, and to the MMS, alter equipment and/or procedures, increase surveillance, etc.?

The commenters responded almost universally that the most important reaction to a theft is to report it to local law enforcement agencies and to follow through when apprehensions are made to aid in prosecution. Most incidents of missing or unaccounted for oil are reported to internal company security and, if it is determined that a theft has occurred, then law enforcement agencies are advised. Federal and State law enforcement and regulatory agencies are also advised. If company security determines that changes in equipment and/or procedures might be

needed and are cost effective, those changes are made. Most advised that increased surveillance is implemented when needed.

Question 4: Based on your past experience and knowledge of the operating environment, which points in the production, separation, treating, storage, and marketing phases do you believe to be the most vulnerable to the theft or mishandling of crude oil?

The respondents consistently advised that the point most vulnerable to theft or mishandling of crude oil is at the storage tanks. Tanks which contain natural gas liquids and those which are in remote locations are the most vulnerable. This response appears to be based on the premise that thieves are most interested in "clean oil," i.e., that which is in marketable condition. The sales points for clean oil were considered to be the next most vulnerable point for loss of crude oil. Other possibilities cited were unnecessary valving on processing vessels or wellheads; improper handling of waste oil from tank cleaning, slop oil to pits, and produced water; and inadequate controls on the transportation of crude oil by motor vehicle. In summary, most respondents felt that site security measures would be most effective at storage tanks and sales points.

Question 5: On the basis of your past experience and views as to vulnerability, what minimum site security requirements do you consider as necessary to effectively deter theft or mishandling of crude oil in a cost-effective manner?

Respondents advised that the most effective efforts to control the theft of oil would be highly visible and stringent prosecution of apprehended thieves coupled with removal of the market for stolen oil via more stringent controls placed upon the purchasers. Limiting the discussion to what can be done at production sites to deter thefts, the respondents advised, in descending order of frequency: (1) The use of locks and seals on storage tank valving with careful records kept concerning the seal numbers; (2) daily tank gauging with records of gauges matched with known production rates; (3) daily inspections by operator employees at irregular times coupled with more effort by "neighbors" to watch leases for unusual activity; (4) accurate facility diagrams with periodic inspection (by both operator employees and MMS personnel) to detect any unauthorized or suspicious alterations; (5) limiting access to sites to authorized personnel by barring roads and access to storage sites via fencing with locked barricades or gates when the level of risk justifies the expenditure; (6) closely controlled handling of slop or waste oil and any other transfers of oil other than normal sales; (7) removal of piping which bypasses sales measurement equipment (mostly meters) and periodic meter proving; and, (8) not allowing salable oil to remain in tanks longer than necessary. Also, mentioned for possible consideration were increased lighting, tighter controls pretaining to water hauling, increased patrols by MMS and/or law enforcement personnel, royalty credit for cost of security requirements imposed by MMS in excess of company policy, and at the company's option, payment of an estimated additional royalty in lieu of increased site security.

Question 6: Once the final MMS regulations for site security requirements have been issued, what is a reasonable period of time for an operator to (a) develop and submit a site security plan and (b) bring all of its facilities into compliance with such requirements?

Responses to this question varied from immediate application of seals to 1½ to 2 years to install complete, sophisticated fencing, lighting, electronic surveillance, and expensive locking devices for value systems. In essence, industry advised that the compliance time needed would depend upon the complexity of the requirements.

Question 7: Where an individual operator has a site security plan that exceeds the minimum requirements, should the MMS inspect for compliance with the total plan or only as the minimum requirements of MMS?

Responses to this question were almost unanimous, i.e., MMS should only inspect against the minimum standards prescribed by regulation. One respondent suggested that the company would appreciate MMS inspection of their facilities against the company standard which is believed to exceed the MMS minimums and advise as to any problems noted, but MMS should only enforce the minimum standards in the regulations. Two respondents advised that MMS inspection is unnecessary as their personnel will inspect site security daily and more effectively to protect their relatively higher interest in the stored oil facilities and equipment.

Question 8: Are there cirumstances that might justify an approved deviation from the site security requirements ultimately adopted by the MMS? If so, cite examples.

The respondents generally advised that, without seeing the regulation and scope of requirement imposed, it is nearly impossible to determine whether deviations would be needed or warranted. A consistent comment was that emergency conditions such as blowouts, short-term equipment failures, acts of God, or other circumstances beyond the operator's reasonable control should justify deviation from site security regulations. In some instances, such a deviation would be needed to allow continued production. Many respondents chose this question as the appropriate place to request that regulations pertaining to site security be general, flexible, and to permit companywide plans rather than only site-specific plans for each lease. They requested enough flexibility so that operators could consider geographic location, variable equipment on site, the degree or volume of risk, temporary equipment, and the ability to formulate more stringent site security plans than required by regulation without having to secure approval.

Question 9: Should MMS hold the site security plans filed with it confidential on the basis that indiscriminate disclosure could abet those intent on the theft or mishandling of crude oil?

Five respondents advised that there should be no need to maintain confidentiality of the plans required by MMS since they should be general in nature and there would be little information of value to a thief. The 25 remaining respondents that addressed this question advised that confidentiality of specific security measures must be absolutely confined to those with a need to know. Some of the respondents advised that the plans will be so sensitive that they are reluctant to file them with MMS for fear that additional opportunity for data leakage is created. Those respondents have no objection to maintaining the plans at locations convenient to MMS and providing them when requested in order to demonstrate compliance with regulations. A few respondents also advised that schematic diagrams should also be maintained by the operator rather than being filed with MMS with the same inspection privilege upon request by MMS.

Question 10: In addition to the inspections carried out by the MMS, should the operators be required to conduct a periodic, self-inspection program for compliance with the site security requirements and report the results to the MMS?

There were 31 responses to this question of which 4 said no and 1 yes without elaboration. The other 26 respondents advised that self inspection by company personnel, both field and security, is much better than MMS inspection and is routinely a part of

their internal security operations. They also saw little to be gained by reporting those inspections to MMS but exhibited no reluctance to making the inspection records available to MMS at company offices for examination when requested.

Question 11: When MMS identifies as violation of the site security requirements at a facility, how much time should the operator be given to correct the situation?

In general, the respondents advised that since the complexity of requirements is unknown and the severity of the infractions thus are indeterminate, the answer is difficult at best. Times to correct a violation varied from immediately because the lessee's interest is greater than the royalty owner's interests, to "reasonable," to variable depending upon nature of infraction and availability of corrective equipment, to 90 days plus reasonable time to perform the work, to 180 days. There was no concensus in the comments other than a request that the time to correct should be reasonable depending upon the amount of work required to correct the problem.

Question 12: What range of enforcement actions should be provided for violations of the site security requirements? For example, citation and opportunity to correct within a reasonable period of time for first violations; shut-in for failure to timely correct or second violation of the same requirement at the same facility or at other similar facilities in the areas; shut-in and the assessment of penalties for repeated violations or a continuing failure to exercise due care and diligence; or lease cancellation when all previous enforcement actions fail to result in compliance.

There were 32 responses to this question, each expressing somewhat different views as to the range of enforcement actions needed. However, the concensus appeared to indicate that there should be an opportunity to correct a violation without penalty the first time the company is notified. The responses also indicated a preference that MMS be required to identify the same infraction at each site within a given field or area before a further infraction of the same requirement at any such site would be subject to a more stringent enforcement action, as opposed to accepting the concept that notification by MMS of an infraction at one site constitutes notice to the operator that if the same infraction exists at any other sites which it operates in the same field or area, it must promptly correct those also. A very consistent theme in the responses was that MMS should not be permitted to assess penalties nor to initiate lease cancellation proceedings with no defense permitted the operator. MMS agrees with this last point and has no intention of attempting to eliminate an operator's right of appeal or the right to other legal recourse.

A proposed rulemaking to revise the oil and gas operating regulations in 30 CFR 221 in its entirety was published on November 17, 1981 (46 FR 56564). That rulemaking would revise and add rules impacting aspects of site security and when they are published as final, it is anticipated that some further amendment will be made. However, the recommendations of the Linowes Commission as well as the 41 responses to the Notice of Intent indicate a need for additional guidance which could not be included in the previous rulemaking. Therefore, all amendments identified herein and references to sections of Title 30 CFR 221 are made to the rules, as modified by the November 17 proposed rulemaking.

The MMS will address the question of whether or not to establish regulations pertaining to recordkeeping and documentation requirements for the purchasers of Federal and Indian oil in a separate rulemaking. Such rulemaking will be undertaken on a general basis if legislation now under consideration is enacted to provide the needed authority. If such legislation is not enacted, rulemaking will be considered to impose such requirements through sales contracts entered into after the effective date of such rule.

In addition to providing answers to the specific questions posed by the Notice of Intent, many respondents furnished guidance which they deemed important in the drafting of minimum standards. Many advised that schematic diagrams showing all vessels, storage tanks, sales facilities, and interconnecting piping must be an integral part of a site security plan. The requirement for submittal of schematic diagrams, which appears at 30 CFR 221.34 and 221.35 of the November 17 proposed rulemaking, is incorporated and made effective in this 30 CFR 221.37 rulemaking by reference.

Many respondents advised that procedures concerning the handling of waste or slop oil should be part of site security plans. Section 221.36(a) and (b) of the November 17 proposed rulemaking and parts of NTL-7 address the handling of waste or slop oil sufficiently and this 30 CFR 221.37 rulemaking incorporates those requirements by reference.

The basic requirements for the preparation of proper run tickets, which appear at § 221.36(c) of the November 17 proposed rulemaking and in NTL-7, are also incorporated in this 30 CFR 221.37 rulemaking by reference.

Some respondents suggested absolute exclusion of public use of access roads and oil fields as a site security standard. MMS recognizes the logic of this suggestion in certain circumstances and has included a standard for limiting access to the production and storage facilities via fencing and locked gates in appropriate instances. However, the great majority of Federal and Indian operations are in western States where the only available roads serve oil fields, residents, and other land users alike. Therefore, MMS does not believe that, as a general policy, the public may or should be excluded from the use of many of these roads.

Several of the questions in the MMS Notice of Intent requested comments concerning MMS inspection procedures and methods of securing correction of noncompliance. While we appreciate the attention given these questions by the respondents, it has been determined that directives concerning these matters are more appropriate for internal MMS instruction rather than regulations. Before these interim site security regulations are published, MMS will issue a directive to its field offices as to how they are to be applied. In general, the directive will advise that leases are to be inspected only for compliance with the site security standards contained in the interim regulations and that operator's plans are to be examined only to assure compliance with such regulatory standards. When these regulations are finalized, apppropriate modifications in the directive will be made. Moreover, if it is then later demonstrated that there is considerable difference or opinion as to how these are being applied, MMS will promulgate an operating order to provide more detailed instructions to operators and its field personnel.

The Department of the Interior has determined that the public interest requires that these rules be implemented prior to receipt of final comments and the issuance of Final Rulemaking. The Linowes Commission report identified the lack of adequate security at many oil storage and production sites as a significant problem. Inspections of operational sites by MMS field and headquarters personnel, both before and since the Commission issued its report and the frequent reports of known or suspected theft received from operators are indicative that little or no improvement in site security has as yet been achieved. In addition, the 41 comments received as a result of the

Notice of Intent published April 21, 1982, were in such detail and addressed the specific elements of concern to the extent deemed necessary to justify publication of this interim rule. Therefore, in order to gain actual working experience with the site security requirement prior to the publication of a final rule and to reduce the opportunity for loss of petroleum production, publication of proposed rulemaking prior to the issuance of these interim rules would not be in the public interest and is waived under 5 U.S.C. 553(b). These interim rules will remain in effect until superseded by the final rulemaking, but in no case longer than September 1, 1983.

Executive Order 12291

The Department has determined that this rule is not a major rule and does not require the preparation of a regulatory impact analysis under Executive Order 12291 because it is estimated to result in a total economic effect of less than $7 million. Since this amount will be spread among approximately 2,200 operators and 17,000 producible oil and gas leases, the total and individual economic effect is not deemed significant.

Regulatory Flexibility Act

The Department has also determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act because small operators will be subject to the same requirements as large operators. In addition, since the losses due to theft may have a greater adverse impact on small operators and lessees, the benefits of increased site security could result in some economic benefits for small entities.

National Environmental Policy Act of 1969

It is hereby determined that this interim 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.

Paperwork Reduction Act of 1980

The information collection requirements contained in 30 CFR 221.37 are being submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will be approved by the Office of Management and Budget and notice of such approval published in the **Federal Register** prior to December 15, 1982, the date by which the initial site security plans must be filed.

List of Subjects in 30 CFR 221

Oil and gas exploration, Public lands/mineral resources, Reporting requirements.

PART 221—[AMENDED]

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189), and Executive Order 12291 (3 CFR, 1981 Comp., p. 127), it is proposed to amend Part 221, Chapter II, Title 30 of the Code of Federal Regulations as set forth below.

Section 221.37, is revised to read as follows:

§ 221.37 Site security on Federal and Indian (except Osage) oil and gas leases.

(a) Within 30 days after production, treating and/or storage facilities are first installed on a lease, a site security plan for the lease, which includes the minimum standards enumerated in paragraph (b) of this section, must be filed with the Supervisor or notice given to the Supervisor that the lease is to be subject to an earlier filed plan. For all other leases which are in a producing status at the effective date of this regulation, a plan must be filed with the Supervisor by December 15, 1982, at which time all leases covered thereby must be in compliance with the plan. At the operator's option, a single plan may include all of the operator's leases within a single MMS District, provided that the plan clearly identifies each lease included within the scope of the plan and the extent to which the plan is applicable to each lease involved. Any security elements in excess of the minimum requirements which the operator wishes to implement, but desires to be held confidential, should not be filed with the Supervisor, but must be available for inspection by MMS personnel on request.

(b) Site security plans must meet or exceed the following minimum standards:

(1) All appropriate valves on lines entering or leaving oil storage tanks, including all valves upstream of the sales point must be effectively sealed using boxcar type numbered seals. Also, any connection, e.g., bull plugs, flat plugs, or victaulic couplings at the end of a system, which allows access to production must be effectively sealed. Such connections often are used on headers, drain lines on production vessels and the piping related thereto. A record of the seal numbers must be maintained by the operator both when they are installed and when they are removed and those records must be available for inspection by MMS personnel on request. These records must identify the valves or connections to which the seal numbers apply. The operator also should limit access to oil production, processing and storage facilities via fencing and locked gates when the risk of loss justifies that means.

(2) The operator must take and record the volume of oil on the leasehold daily. These records must be available for MMS inspection on request. The operator will compare the production volume indicated by the daily gauges and, as appropriate, meter readings to known production rates.

(3) The operator must conduct and document daily inspections of oil production and storage facilities at irregular times by company employees or contractors.

(4) Site facility diagrams required under §§ 221.32, 221.34(b), and 221.35(b), as proposed on November 17, 1981, must be filed with the Supervisor and incorporated by reference in the site security plan.

(5) Each oil sales metering facility must employ meters that have non-resettable totalizers. Such facilities must not contain a by-pass around the meter nor contain any piping that permits the removal of oil from storage tanks without going through the meter, unless otherwise approved by the Supervisor.

(6) The operators must minimize the time that oil is stored on the leases where oil is sold via hand-gauged volumes to that time needed to accumulate a run and to complete its sale via tank truck or pipeline.

(7) Operators will deal promptly with slop or waste oil in accordance with § 221.36(a) and (b) as proposed on November 17, 1981, and provisions of the applicable NTL's or operating orders.

(8) All tanks in which oil is stored must be clearly identified with the name of the operator, the lease serial number, the tank number and, in public land survey States, the quarter-quarter section, section, township, range, and meridian. On Indian leases, the name of the Tribe or Allottee must also be shown. The identification must be maintained in legible condition and must be clearly apparent to any person at the sales point.

(9) Any person removing oil from a lease by motor vehicle must have the identification documentation required by appropriate NTL's or operating order in his/her physical possession at the time the oil is removed

(c) In the event a theft of oil is discovered on a Federal or Indian lease or circumstances are discovered which indicate a theft may have occurred, the Supervisor must be notified as soon as possible but, in any event, within 24 hours of the discovery. Notification must include an estimate of the volume of oil involved. Operators are also encouraged to report thefts or suspicious circumstances promptly to local law enforcement agencies and internal company security.

(d) In the event the site security plans are altered due to changing circumstances, the operator must notify the Supervisor within 30 days of any change in content or coverage of the plan.

Date: September 24, 1982.

Donald Paul Hodel,

Under Secretary.

[FR Doc. 82-28384 Filed 10-14-82; 8:45 am]

BILLING CODE 4310-MR-M

federal register

Friday
October 15, 1982

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

October 1, 1982.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of October 1, 1982 of 20 deferrals contained in the first special message of FY 1983 transmitted to the Congress on October 1, 1982.

Deferrals (Attachment)

As of October 1, 1982 $590.9 million in 1983 budget authority was being deferred from obligation and another $7.9 million in 1983 obligations was being deferred from expenditure. The Attachment shows the history and status of each deferral reported during FY 1983.

David A. Stockman,

Director.

ATTACHMENT B—STATUS OF DEFERRAL—FISCAL YEAR 1982; AS OF OCTOBER 6, 1982

[Amounts in Thousands of Dollars]

Agency/Bureau/Account	Deferral No.	Amount transmitted, original request	Amount transmitted, subsequent change	Date of message	Cumulative OMB/agency releases	Congressionally required releases	Cumulataive adjustments	Amount deferred as of Oct. 1, 1982
Funds Appropriated to the President								
International Development Assistance								
Functional development assistance program	BA D83-1	8,129		Oct. 1, 1982				8,129
Funds Appropriated to the President								
Total	BA	8,129						8,129
Department of Agriculture								
Forest Service								
Timber salvage sales	BA D83-2	10,002		Oct. 1, 1982				10,002
Expenses, brush disposal	BA D83-3	44,575		Oct. 1, 1982				44,575
Department of Agriculture								
Total	BA	54,577						54,577
Department of Commerce								
International Trade Administration								
Participation in U.S. expositions	BA D83-4	3,356		Oct. 1, 1982				3,356
National Oceanic and Atomospheric Administration								
Promote and develop fishery products and research	BA D83-5	30,619		Oct. 1, 1982				30,619
Department of Commerce								
Total	BA	33,975						33,975
Department of Defense—Military								
Military Construction								
Military construction, all services	BA D83-6	64,063		Oct. 1, 1982				64,063
Department of Defense—Military								
Total	BA	64,063						64,063
Department of Defense—Civil								
Wildlife Conservation, Military Reservations								
Wildlife conservation	BA D83-7	1,061		Oct. 1, 1982				1,061
Department of Defense—Civil								
Total	BA	1,061						1,061
Department of Energy								
Energy Programs								
Fossil energy R&D	BA D83-8	20,136		Oct. 1, 1982				20,136
Department of Energy								
Total	BA	20,136						20,136
Department of Health and Human Services								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital	BA D83-9	9,714		Oct. 1, 1982				9,714
Office of Assistant Secretary for Health								
Special foreign currency program	BA D83-10	6,420		Oct. 1, 1982				6,420

ATTACHMENT B—STATUS OF DEFERRAL—FISCAL YEAR 1982; AS OF OCTOBER 6, 1982—Continued

[Amounts in Thousands of Dollars]

Agency/Bureau/Account	Deferral No.	Amount transmitted, original request	Amount transmitted, subsequent change	Date of message	Cumulative OMB/agency releases	Congressionally required releases	Cumulataive adjustments	Amount deferred as of Oct. 1, 1982
Department of Health and Human Services								
Total	BA	16,134						16,134
Department of the Interior								
National Park Service								
Land and water conservation fund	BA D83-11	30,000		Oct. 1, 1982				30,000
Department of the Interior								
Total	BA	30,000						30,000
Department of State								
Other								
Emergency refugee and migration assistance fund	BA D83-12	37,692		Oct. 1, 1982				37,692
Department of State								
Total	BA	37,692						37,692
Department of Transportation								
Federal Aviation Administration								
Civil supersonic aircraft development termination	BA D83-13	46		Oct. 1, 1982				46
Facilities & equip. (Airport & airway trust fund)	BA D83-14	158,485		Oct. 1, 1982				158,485
Department of Transportation								
Total	BA	158,531						158,531
Department of the Treasury								
Office of Revenue Sharing								
State and local government fiscal assistance fund	BA D83-15	106,474		Oct. 1, 1982				106,474
	O D83-16	7,909		Oct. 1, 1982				7,909
Federal Law Enforcement Training Center								
Construction	BA D83-17	3,078		Oct. 1, 1982				3,078
Department of the Treasury								
Total	BA	109,552						109,552
Total	O	7,909						7,909
Other Independent Agencies								
District of Columbia								
Loans to DC for capital investment	BA D83-18	38,832		Oct. 1, 1982				38,832
Pennsylvania Avenue Development Corporation								
Land acquisition and development fund	BA D83-19	17,949		Oct. 1, 1982				17,949
Railroad Retirement Board								
Milwaukee railroad restructuring, administration	BA D83-20	240		Oct. 1, 1982				240
Other Independent Agencies								
Total	BA	590,021						57,021
Total	BA	590,871						590,871
Total	O	7,909						7,909

[FR Doc. 82-28473 Filed 10-14-82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing October 14, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 1409 / Pub. L. 97-293 To authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes. (October 12, 1982; 96 Stat. 1261) Price: $3.25.

S.J. Res. 239 / Pub. L. 97-294 Designating October 16, 1982, as "National Newspaper Carriers Appreciation Day". (October 12, 1982; 96 Stat. 1286) Price: $1.75.

H.R. 4623 / Pub. L. 97-295 To amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code. (October 12, 1982; 96 Stat. 1287) Price: $3.50.

H.R. 5154 / Pub. L. 97-296 To amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business. (October 12, 1982; 96 Stat. 1316) Price: $1.75.

H.R. 6168 / Pub. L. 97-297 To amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes. (October 12, 1982; 96 Stat. 1317) Price: $1.75.

H.R. 6454 / Pub. L. 97-298 Anti-Arson Act of 1982. (October 12, 1982; 96 Stat. 1319) Price: $1.75.

H.J. Res. 207 / Pub. L. 97-299 To require the Secretary of the Interior to place a plaque at the United States Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial. (October 12, 1982; 96 Stat. 1320) Price: $1.75.

S. 2036 / Pub. L. 97-300 Job Training Partnership Act. (October 13, 1982; 96 Stat. 1322) Price: $4.50.