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Pages 33467-33696

federal register

Friday
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Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture to the Under Secretary for International Affairs and Commodity Programs and from the Under Secretary to the Administrators of the Foreign Agricultural Service and the Agricultural Stabilization and Conservation Service to assign responsibilities under section 416 of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Mary T. Chambliss, Director, Program Analysis Division, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447-3573.

SUPPLEMENTARY INFORMATION: Section 110 of the Omnibus Budget Reconciliation Act of 1982, Pub. L. 97-253, amended section 416 of the Agricultural Act of 1949, to authorize the foreign donation of Commodity Credit Corporation stocks of dairy products. This document delegates that authority within the Department of Agriculture.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated. Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries.

2. Section 2.21 is amended by adding paragraph (d)(32) to read as follows:

§ 2.21 Delegations of authority to the Under Secretary for International Affairs and Commodity Programs.

* * * * *

(d) * * *

(32) Administer the program under section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), relating to the foreign donation of Commodity Credit Corporation stocks of dairy products.

* * * * *

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

3. Section 2.65 is amended by adding paragraph (a)(35) to read as follows:

§ 2.65 Administrator, Agricultural Stabilization and Conservation Service.

(a) * * *

(35) Determine the type and quantity of dairy products available for foreign donation pursuant to section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), and arrange for reprocessing, packaging, transportation, handling, and delivery to port of such dairy products and provide claims and other fiscal functions in connection therewith.

* * * * *

4. Section 2.68 is amended by adding paragraph (a)(35) to read as follows:

§ 2.68 Administrator, Foreign Agricultural Service.

(a) * * *

(35) Administer the program under section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), relating to the foreign donation of Commodity Credit Corporation stocks of dairy products, except as otherwise delegated in § 2.65(a)(35).

For Subpart C:

Dated: July 19, 1983.

John R. Block,
Secretary of Agriculture.

For Subpart H:

Dated: July 19, 1983.

Daniel G. Amstutz,
Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 83-19933 Filed 7-21-83; 8:45 am]
BILLING CODE 3410-10-M

Animal and Plant Health Inspection Service

7 CFR Part 380

[Docket No. 83-331]

Rules of Practice Governing Proceedings Under Certain Acts

AGENCY: Animal and Plant Health Inspection Service, USDA.
ACTION: Final rule.

SUMMARY: This document amends Chapter III of Title 7 to (1) state that the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture" are applicable to adjudicatory, administrative hearings under certain statutes and regulations administered by the Animal and Plant Health Inspection Service and (2) provide Supplemental Rules of Practice to provide a mechanism for settling cases without the institution of such formal proceedings.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505

Belcrest Road, Hyattsville, MD 20782, 301–436–5533.

SUPPLEMENTARY INFORMATION: Under the Administrative Regulations of the Department of Agriculture (7 CFR Part 1), any hearing to assess a civil penalty under the following statutory provisions must be conducted in accordance with the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture Under Various Statutes" as contained in Subpart H of Part 1, Subtitle A, 7 CFR:

Act of August 20, 1912, commonly known as the Plant Quarantine Act, Section 10, as amended (7 U.S.C. 163, 164).

Act of January 31, 1942, as amended (7 U.S.C. 149).

Federal Plant Pest Act, Section 108, as amended (7 U.S.C. 150gg).

Chapter III of Title 7 CFR contains regulations issued pursuant to these Acts. This document amends Chapter III of Title 7 CFR by adding a new Part to (1) state, for informational purposes, that the Rules of Practice in Subpart H of Part 1, Subtitle A, 7 CFR are applicable to adjudicatory, administrative proceedings under the specified sections of the Acts listed above and (2) provide Supplemental Rules of Practice to provide a mechanism for settling cases without the institution of such formal proceedings.

This rule relates to internal agency management, and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impracticable and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–351, The Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 380

Administrative practice and procedure.

Accordingly, Chapter III of Title 7 CFR, is amended by adding a new part 380 to read as follows:

PART 380—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

Subpart A—General

Sec.

Subpart B—Supplemental Rules of Practice

Authority: Sec. 1, 37 Stat. 315, as amended; Sec. 5, 37 Stat. 316, as amended; Sec. 7, 37 Stat. 317, as amended; Secs. 8 and 10, 37 Stat. 318, as amended; Sec. 9, 37 Stat. 318; Sec. 10, 45 Stat. 468; Sec. 15, 45 Stat. 565; 56 Stat. 40, as amended; Secs. 103 and 105, 71 Stat. 32, as amended; Sec. 106, 71 Stat. 33; Sec. 108, 71 Stat. 34, as amended; 7 U.S.C. 149, 150bb, 150dd, 150ee, 150gg, 154, 159–164a, 167, 7 CFR 2.17, 2.51, 371.2(c).

Subpart A—General

§ 380.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the following statutory provisions:

Act of August 20, 1912, commonly known as the Plant Quarantine Act, Section 10, as amended (7 U.S.C. 163, 164), Act of January 31, 1942, as amended (7 U.S.C. 149), Federal Plant Pest Act, Section 108, as amended (7 U.S.C. 150gg).

In addition, the Supplemental Rules of Practice set forth in Subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 380.10 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under any of the Acts listed in § 380.1, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator or the Administrator's delegate gives notice of an apparent violation of the applicable Act, or the regulations issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by such Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and

(3) The Administrator agrees to accept the specified penalty in settlement of the particular matter involved if the penalty is paid within the designated time.

(b) If the specified penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

Done at Washington, D.C., this 20th day of July, 1983.

William F. Helms,

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

[FR Doc. 83-19073 Filed 7-21-83; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota Regulations for the 1982 Crop of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: An interim rule which was published at 47 FR 38259 with respect to the 1982 crop of peanuts is adopted as a final rule without change. The interim rule addresses the assessment of marketing penalties, identification of marketings, procedures for handling marketing violations, registration of peanut handlers, and the responsibilities of handlers to maintain certain records and reports.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Paul P. Kume (ASCS) 202–382–0153. A final Regulatory Impact Analysis has been prepared and is available on request from the Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Post Office Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This Final Rule has been reviewed under USDA procedures, Executive Order 12291, and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this rule applies to are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this Final Rule since the Department of Agriculture is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The peanut program is conducted in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended ("1938 Act") and the Agricultural Act of 1949 as amended ("1949").

An Interim Rule promulgating regulations (7 CFR 729.165 through 729.202) addressing marketing penalties and the other topics indicated above with respect to the 1982 peanut crop was published in the **Federal Register** on August 31, 1982 (47 FR 38259). Comments on the Interim Rule were received for a period of 60 days which ended on November 1, 1982. The provisions of the interim rule did not change the peanut program markedly from the manner in which the program operated for the 1981 crop. The program changes which were made generally involved statutory amendments made to the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 by the Agriculture and Food Act of 1981 (Pub. L. 97-98).

The most significant changes from previous crop years involved seed peanuts, penalty rates, penalty procedures and the failure of producers to properly certify peanut acreage. With respect to seed peanuts, the Interim Rule implemented the 1981 amendments by permitting the Secretary of Agriculture to exclude from the definition of quota peanuts those seed peanuts which are unique strains not commercially available and which are used to produce green peanuts (i.e., peanuts produced for consumption as boiled peanuts). With regard to penalties, the provisions of the Interim Rule differ from the regulations which were applicable to prior crops by: (1) Increasing the basic penalty rate from 120 percent of the quota support level to 140 percent of that level, (2) providing that appeals of penalty assessments would be governed by the procedures set forth in 7 CFR Part 780, (3) allowing the waiver of penalties in certain instances, and (4) providing that no penalty would be assessed for poundage errors which were less than a certain tolerance. The provisions of the Interim Rule also differ from the regulations govering prior crops by specifically providing for penalties to be assessed for the failure of producers to properly certify the acreage which is committed to peanut production. These changes are described in detail in the supplementary information published with the Interim Rule.

There was one comment received from an organization which supported the Interim Rule and recommended its adoption as a Final Rule. Since no changes have been found to be necessary, it has been determined that the Interim Rule will be adopted as a final rule without modification.

List of Subjects in 7 CFR Part 729

Poundage quotas, Penalties, Reporting requirements.

PART 729—[AMENDED]

Accordingly, the Interim Rule published at 47 FR 38259 is hereby adopted as a final rule without change.

Signed at Washington, D.C. on July 18, 1983.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-19878 Filed 7-21-83; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 421]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 24–30, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 24, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 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 certified 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 Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon 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 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on July 19, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues steady.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.721 is added as follows:

§ 910.721 Lemon regulation 421.

The quantity of lemons grown in California and Arizona which may be handled during the period July 24, 1983 through July 30, 1983, is established at 290,000 cartons.

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

Dated: July 21, 1983.

Charles R. Brader,

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

[FR Doc. 83-20110 Filed 7-21-83; 12:57 pm]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 83-076]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Live Virus Vaccines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments revise the Standard Requirements for live virus vaccines by: (a) Deleting the requirement to retest the Master Seed Virus for immunogenicity every 5 years after the initial 3-year retest, (b) reducing the minimum virus titer required for serial release, and (c) where applicable, deleting unnecessary potency and safety test requirements for release of product before a lot of Master Seed Virus is established.

Current standards for live virus vaccines require that each Master Seed be retested for immunogenicity 3 years after the initial immunogenicity test and every 5 years thereafter. These standards also specify that such vaccines shall have a minimum titer for release. It has been found that in some cases the minimum titer is in excess of the titer actually needed for adequate animal protection. Therefore, these amendments reduce such titers so that they conform with presently available scientific information.

When the Master Seed principle was instituted, a paragraph (e) was included in the Standard Requirements providing for animal tests of product prior to release until a lot of Master Seed Virus could be established. These amendments will eliminate such animal tests which are no longer necessary.

EFFECTIVE DATE: These amendments become effective July 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. P. L. Joseph, Chief Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 836, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20784, 301-436-7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The amendments will not have an adverse effect on the economy and will not result in 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 the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets. These revisions will reduce regulatory requirements.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing. This action will result in a beneficial effect to all licensed producers of live virus vaccines by reducing the number of times the Master Seed Virus must be retested for immunogenicity and by permitting the production of serials of vaccines with lower titer requirements.

Background

The requirement to periodically requalify the immunogenicity of a Master Seed used in making live virus vaccines has been considered necessary until such time as an accumulation of data would support the antigenic stability of the Master Seed Virus over extended periods of storage. Data accumulated over several years have shown that the immunogenicity of the Master Seed Virus is not adversely affected over extended periods of storage. Therefore, the continued retesting of Master Seed Viruses approved by Veterinary Services for host animal immunogenicity is no longer considered necessary and would be deleted. The elimination of such retesting will result in a reduction in testing costs to the producer.

Most of the minimum titers now required for release of live virus vaccines were established before the Master Seed concept. Based on data available at that time, it was believed that these titers were required along with host animal tests to insure that each serial and subserial of vaccine would retain its effectiveness over long periods of storage and varying conditions of use. These minimum titers were retained when new Standard Requirements providing for release of product under the Master Seed concept were applied.

Results of immunogenicity studies with Master Seeds and stability data that have been accumulated indicate that vaccines can be released with lower titers than required by the current Standard Requirements and still maintain the required efficacy. The lower titer for release of each product would be directly related to the minimum titer used in the initial Master Seed immunogenicity test. This lower titer will permit an increased number of doses of vaccine to be produced from a lot of bulk virus material, resulting in a lower cost of production for producers. A virus titer of $10^{9.5}$ is the lowest titer that can consistently be validated. This minimum virus titer will be retained in the Standard Requirements for all applicable products.

When the Master Seed concept was initiated by Veterinary Services, it was necessary to retain alternate test procedures such as host animal potency and safety tests for the release of serials and subserials of products until the Master Seed concept was fully evaluated and established in the biologics industry. Now that the Master Seed Virus principle is being universally used by the biologics industry, the alternate test requirements have become unnecessary. Therefore, paragraph (e) is being deleted from the applicable Standard Requirements.

Comments Received

On October 27, 1982, a notice of proposed rulemaking was published in the **Federal Register** at FR 47596 discussing these revisions. Interested persons were invited to participate in this rulemaking proceeding by submitting comments. Eleven written comments were received including nine from licensed manufacturers, one from a university professor, and one from a USDA laboratory.

The licensed veterinary biologics manufacturers all supported the proposed rulemaking. One

manufacturer, while agreeing to the proposed rulemaking, suggested increasing the interval between the original immunogenicity test and the repeat test from 3 to 5 years. In support of this suggestion, he offered that in some cases 18 months can elapse from the completion of the original immunogenicity test and the time the product is marketed. The extended time he suggested would allow for evaluation of the product and enable the company to realize a profit before incurring the expense of another immunogenicity test. The repeat immunogenicity test was established at 3 years to allow for early detection of any change that may occur with the Master Seed during storage and to correct as early as possible any unexpected or adverse reaction caused by the licensed product that could be traced back to the Master Seed. In most cases the repeat Master Seed immunogenicity test is conducted with less than half the number of animals used in the initial test, which significantly reduces the expense of conducting the repeat test. The Agency believes that conducting the repeat immunogenicity test at 3 years rather than 5 years has good scientific merit. Therefore, the Agency believes that it is in the best interest of the licensee and the user of these products not to make a change in the current requirement.

The comment received from the university professor included data and suggested adverse effects from an excessive amount of virus in Bovine Rhinotracheitis Vaccine. Current standards for Bovine Rhinotracheitis Vaccine require a minimum vaccine virus titer of $10^{3.7}$ $TCID_{50}$ per dose through expiration. This amendment will reduce the titer required through expiration to $10^{2.7}$ greater than that found to be satisfactory in the immunogenicity test. When this principle is properly applied, an excessive amount of virus in a vaccine may be avoided. Before a vaccine is licensed, the product is also used in field trials in several herds, usually in different geographic locations, in an effort to discover if any adverse reactions result from the administration of the vaccine.

One licensee and the USDA laboratory person commented specifically on reducing the virus titer for Newcastle Disease Vaccine. Both indicated that the proposed titer of $10^{2.5}$ EID_{50} per dose through expiration would make the vaccine ineffective. Most licensees do not have difficulty in producing vaccine that will maintain the presently required titer of $10^{5.5}$ EID_{50} per dose through the expiration date. As pointed out in the comments, the lower titer appearing in the proposed rulemaking would provide protection against domestic strains of Newcastle disease virus, but it would not provide against the exotic viscerotropic strains. In case of an outbreak of velogenic viscerotropic Newcastle disease requiring extensive use of vaccine, the vaccines available must be of sufficient quality to aid in control of the disease. The trend in the industry is to combine Newcastle disease virus with Infectious Bronchitis virus. There is known interference to the development of Newcastle disease immunity by Bronchitis virus. This interference is apparently dose related. Most of the Bronchitis vaccines presently used have need for a fairly high titer to satisfactorily pass the Master Seed requirements. Therefore, it is necessary to have sufficient titer of Newcastle disease virus in such products to overcome this interference. The present titer requirement for Newcastle Disease Vaccine of $10^{5.5}$ EID_{50} per dose (minimum) helps maintain the efficacy of the vaccine. For the reasons mentioned above, the Agency believes that it is necessary to maintain the minimum release titer for Newcastle Disease Vaccine as currently stated in the Standard Requirements. Therefore, 9 CFR 113.164(d)(3) shall remain "* * * but not less than $10^{5.5}$ EID_{50} per dose * * *."

After due consideration of all relevant matters, including the proposal set forth in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

The amendments will in effect relax current Standard Requirements for live virus vaccines.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

1. Section 113.137 is amended by revising paragraph (c)(4) to read:

§ 113.137 Distemper Vaccine—Mink.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided*, That five of the five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

* * * * *

2. Section 113.139 is amended by revising paragraph (c)(4) to read:

§ 113.139 Feline Panleukopenia Vaccine.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Ten susceptible cats (8 vaccinates and 2 controls) shall be used in the retest. Susceptibility shall be determined in the manner provided in paragraph (c)(1) of this section.

* * * * *

3. Section 113.140 is amended by revising paragraph (c)(4) to read:

§ 113.140 Canine Hepatitis Vaccine.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Ten susceptible dogs (8 vaccinates and 2 controls) shall be used in the retest. Susceptibility shall be determined in the manner provided in paragraph (c)(1) of this section.

* * * * *

4. Section 113.141 is amended by revising paragraph (c)(4) to read:

§ 113.141 Canine Distemper Vaccine, Ferret Avirulent.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Ten susceptible dogs (8 vaccinates and 2 controls) shall be used in the retest. Susceptibility shall be determined in the manner provided in paragraph (c)(1) of this section.

* * * * *

5. Section 113.142 is amended by revising paragraph (c)(4) to read:

§ 113.142 Canine Distemper Vaccine, Ferret Virulent.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided*, That five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

* * * * *

6. Section 113.143 is amended by revising paragraph (b)(5) to read:

§ 113.143 Encephalomyelitis Vaccine, Venezuelan.

* * * * *

(b) * * *

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years unles use of the lot previously tested is discontinued. Only five vaccinates and two controls need to be used in the retest; *Provided,* That five of five vaccinates and the two controls shall meet the criteria in paragraph (b)(4) of this section.

* * * * *

7. Section 113.144 is amended by revising paragraphs (c)(9) and (d)(3) to read:

§ 113.144 Bovine Parainfluenza $_3$ Vaccine.

* * * * *

(c) * * *

(9) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided,* That five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (c)(6) of this section.

* * * * *

(d) * * *

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer per dose sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in the immunogenicity test but not less than $10^{2.5}$ $TCID_{50}$ per dose.

8. Section 113.145 is amended by revising paragraphs (c)(8) and (d)(3) to read:

§ 113.145 Bovine Rhinotracheitis Vaccine.

* * * * *

(c) * * *

(8) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided,* That five of five vaccinates and at least four of the five controls shall meet the criteria prescribed in paragraphs (c)(5) and (6) of this section.

* * * * *

(d) * * *

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer per dose sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in the immunogenicity test but not less than $10^{2.5}$ $TCID_{50}$ per dose.

* * * * *

9. Section 113.146 is amended by revising paragraphs (c)(7) and (d)(3) to read:

§ 113.146 Bovine Virus Diarrhea Vaccine.

* * * * *

(c) * * *

(7) The Master Seed shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided,* That five of five vaccinates and at least four of the five controls shall meet the criteria prescribed in paragraphs (c)(4) and (c)(5) of this section.

* * * * *

(d) * * *

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer per dose sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have virus titer of $10^{0.7}$ greater than that used in the immunogenicity test but not less than $10^{2.5}$ $TCID_{50}$ per dose.

* * * * *

10. Section 113.148 is amended by revising paragraphs (c)(6) and (d)(2) to read:

§ 113.148 Measles Vaccine.

* * * * *

(c) * * *

(6) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided,* That five of five vaccinates and at least four of the controls shall meet the criteria prescribed in this section.

* * * * *

(d) * * *

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of the vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in the immunogenicity test but not less than $10^{2.5}$ ID_{50} per dose.

* * * * *

11. Section 113.149 is amended by revising paragraphs (c)(4) and (d)(2) to read:

§ 113.149 Feline Calicivirus Vaccine.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Either 10 vaccinates and 6 controls or 5 vaccinates and 3 controls shall be used in the retest.

* * * * *

(d) * * *

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in the immunogenicity test but not less than $10^{2.5}$ $TCID_{50}$ or plaque forming units per dose.

* * * * *

12. Section 113.150 is amended by revising paragraphs (c)(4) and (d)(2) to read:

§ 113.150 Feline Rhiontracheitis Vaccine

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is

discontinued. Either 10 vaccinates and 6 controls or 5 vaccinates and 3 controls shall be used in the retest.

* * * * *

(d) * * *

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in the immunogenicity test but not less than $10^{2.5}$ $TCID_{50}$ or plaque forming units per dose.

* * * * *

13. Section 113.160 is amended by removing paragraph (e) and by revising paragraph (c)(5) to read:

§ 113.160 Avian Encephalomyelitis Vaccine.

* * * * *

(c) * * *

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(4) of this section

* * * * *

14. Section 113.161 is amended by removing paragraph (e) and by revising paragraph (c)(5) to read:

§ 113.161 Avian Pox Vaccine.

* * * * *

(c) * * *

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(4) of this section

* * * * *

15. Section 113.162 is amended by revising paragraph (c)(4) to read:

§ 113.162 Bronchitis Vaccine.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

* * * * *

16. Section 113.163 is amended by removing paragraph (e) and by revising paragraph (c)(6) to read:

§ 113.163 Fowl Laryngotracheitis Vaccine.

* * * * *

(c) * * *

(6) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraphs (c)(4) and (5) of this section.

* * * * *

17. Section 113.164 is amended by removing paragraph (e) and by revising paragraphs (c)(5) and (d)(3) to read:

§ 113.164 Newcastle Disease Vaccine.

* * * * *

(c) * * *

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(4) of this section.

* * * * *

(d) * * *

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer per dose sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in the immunogenicity test but not less than $10^{5.5}$ EID_{50} per dose.

* * * * *

18. Section 113.166 is amended by removing paragraph (e) and by revising paragraph (c)(4) to read:

§ 113.166 Bursal Disease Vaccine.

* * * * *

(c) * * *

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years from the original testing unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

* * * * *

(37 Stat. 832–833 (21 U.S.C. 151–158))

Done at Washington, D.C., this 18th day of July 1983.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-19916 Filed 7-21-83; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 113

[Docket No. 83-066]

Viruses, Serums, Toxins, and Analogous Products; Revision of Avian Mycoplasma Antigen Standard Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the Standard Requirements for Avian Mycoplasma Antigen. The amendment deletes the requirements for Mycoplasma Gallisepticum Tube Antigen, a product which is no longer licensed, and adds standards for Mycoplasma Meleagridis Antigen, a product which one firm has been licensed to produce since the last revision of standards. The purpose of this action is to remove standards which are no longer used and to add standards which have been recently developed. Standard Requirements for the other Avian Mycoplasma Antigens remain unchanged.

EFFECTIVE DATE: This amendment becomes effective July 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Chief Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to

implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

This amendment does not change any product requirement. It simply deletes an obsolete standard and adds a standard for one product which is consistent with the producer's current Outline of Production filed with Veterinary Services (VS) in accordance with 9 CFR 114.8.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. There is currently only one USDA-licensed establishment producing Mycoplasma Meleagridis Antigen. This establishment is not considered a small entity; i.e., a business which is independently owned and operated and which is not dominant in the field of veterinary biologics manufacturing.

Background

Standard requirements consist of test methods, procedures, and criteria established by VS for evaluating biological products for purity, safety, potency, and efficacy. Until standard requirements are developed by VS and are codified in the regulations (9 CFR Part 113), test methods, procedures and criteria in the evaluation of a product are developed by the licensee and are written into an Outline of Production, which is required to be filed with VS in accordance with 9 CFR 114.8.

When standard requirements have been developed by VS through experience with products, as specified in Outlines of Production and/or through the development of scientific knowledge at National Veterinary Services Laboratories or elsewhere, such requirements are codified in the regulations. Codification assures uniformity and general applicability of the requirements to all licensees. Until now standard requirements for Mycoplasma Meleagridis Antigen were found only in the firm's Outline of Production. This amendment will make uniform requirements available to the general public and applicable to all licensees. All references to Mycoplasma Gallisepticum Tube Antigen found in 9 CFR 113.202 of the Standard Requirements are deleted since the product is no longer licensed by USDA.

Comments Received

On November 10, 1982, a notice of proposed rulemaking was published in the **Federal Register** at 47 FR 50899 discussing this revision. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments. Two comments were received, one from a licensed manufacturer and another from a professional organization. One comment questioned the need of publishing the Standard Requirements for Mycoplasma Meleagridis Antigen in the **Federal Register.** Since this antigen has been on the market for some time, it is the Department's position that codified uniform Standard Requirements should be implemented. Neither comment objected to any part of the rulemaking as proposed.

After due consideration of all relevant matters, including the proposal set forth in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Section 113.202 is revised to read as follows:

§ 113.202 Avian mycoplasma antigen.

Mycoplasma antigens shall be prepared from organisms, grown in broth cultures, that are inactivated and standardized. Plate antigens shall be stained with a dye acceptable to Veterinary Services (VS). Final container samples of completed product from each serial shall be tested for density, preservative content, homogeneity, hydrogenion concentration, purity, sensitivity, and specificity in accordance with the conditions prescribed for each test. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Density requirements.* A 2.5 ml sample of completed antigen shall be diluted with 2.5 ml of buffer solution formulated in the same manner as the vehicle of the antigen being tested in a modified Hopkins tube and then sedimented at 1,000 x g in a refrigerated centrifuge at 20° C for 90 minutes. If the packed cell volume of the completed antigen is not 1.2 percent (±0.4 percent), the serial is unsatisfactory.

(b) *Preservative requirements.* Preservatives shall be as specified in the Outline of Production filed with VS in accordance with 9 CFR 114.8. If phenol is used, a direct titration with a standardized bromide bromate solution shall be made. If the final concentration of phenol is not 0.25 percent (±0.05 percent), the serial is unsatisfactory.

(c) *Homogeneity requirements.*

(1) Plate antigen shall be checked on a plate for homogeneity and autoagglutination. If plate antigen is not homogeneous and free of large visible particles (strands or clumps) or if it autoagglutinates, the serial is unsatisfactory.

(2) Stereo-microscopic examination shall be used when necessary to evaluate a granular appearing antigen.

(d) *Hydrogen ion concentration.* The hydrogen ion concentration shall be determined with a pH meter which has been standardized with a pH buffer just prior to use. The pH of Mycoplasma Gallisepticum Antigen shall be 6.0±0.2. The pH of Mycoplasma Synoviae Antigen and Mycoplasma Meleagridis Antigen shall be 7.0±0.2.

(e) *Purity requirements.* The antigen shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(f) *Sensitivity requirements.* The reactivity of each antigen shall be tested by comparing the agglutination reactions of each serial of antigen with the agglutination reactions of a standard reference antigen which is supplied by or acceptable to VS. A set consisting of five known positive and five known negative serums shall be used. The negative serums shall be tested against the antigens undiluted and the positive serums shall be tested against the antigens diluted 1:4 in buffer solution formulated in the same manner as the vehicle of the antigen being tested. If negative serums do not have negative reactions in this test, the serial is unsatisfactory. If the test antigen and the reference antigen do not have the same agglutination reactions with at least four of the five positive serums used, the serial is unsatisfactory.

(1) The sensitivity of Mycoplasma Gallisepticum Antigen shall be tested using a set of chicken and a set of turkey serums (the positive serums shall have varying degrees of reactivity from weakly positive to strongly positive).

(2) The sensitivity of Mycoplasma Synoviae Antigen shall be tested using chicken serums.

(3) The sensitivity of Mycoplasma Meleagridis Antigen shall be tested using turkey serums.

(g) *Specificity requirements.* Mycoplasma Synoviae Antigen shall be examined for cross-agglutination with five *Mycoplasma gallisepticum* antiserums (chicken origin); Mycoplasma Meleagridis Antigen shall be examined for cross-agglutination

with five *Mycoplasma gallisepticum* antiserums (turkey origin) and five *Mycoplasma synoviae* antiserums (turkey origin). Tests shall be conducted with undiluted antigen. If cross-agglutination occurs, the serial is unsatisfactory.

(37 Stat. 832–833; 21 U.S.C. 151–158)

Done at Washington, D.C., this 18th day of July 1983.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-19917 Filed 7-21-83; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 113

[Docket No. 83-075]

Viruses, Serums, Toxins, and Analogous Products; Revisions of Standard Requirements for Live Bacterial Vaccines and Animal Safety Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the Standard Requirements by adding 9 CFR 113.64, General Requirements for Live Bacterial Vaccines; 9 CFR 113.44, Swine Safety Test; and 9 CFR 113.45, Sheep Safety Test. Presently, requirements with which all live bacterial vaccines must comply are specified for each product in Outlines of Production filed by producers (in accordance with 9 CFR 114.8) and approved by the Animal and Plant Health Inspection Service (APHIS). The purpose of this amendment is to codify requirements that will be applicable to all live bacterial vaccines and master seeds. This will make uniform requirements available for use by all producers.

EFFECTIVE DATE: July 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, USDA, APHIS, VS, Room 836, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301–436–7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and has been classified as "nonmajor."

This final rule is applicable to producers of live bacterial vaccines. Most of the 12 licensed establishments manufacturing these products and the National Veterinary Services Laboratories (NVSL) are currently using the methods described in this rulemaking. Therefore, the entire industry should be able to adopt these tests at no additional costs. There will be no significant change in the bacterial vaccine serial rejection rate and, therefore, no change in production costs or consumer prices.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have an adverse economic impact on a substantial number of small entities.

Twelve licensed establishments produce one or more of 14 live bacterial vaccines totaling 25 licensed products. One of these establishments is considered a small entity; i.e., a business which is independently owned and operated and is not dominant in the field of veterinary biologics manufacturing. The amendment does not greatly differ from the test methods specified in the firm's present Outline of Production and will not significantly affect its production costs.

Background

Currently, tests and procedures with respect to the production of live bacterial vaccines are specified in a firm's Outline of Production. Such tests and procedures are generally similar for most of the establishments.

This amendment will codify in Part 113 test methods, procedures, and criteria established by Veterinary Services (VS) for evaluating live bacterial vaccines to determine whether they are pure, safe, potent, and efficacious. All such vaccines and the master seeds will be required to meet the applicable requirements before marketing release is authorized by USDA. In addition, two new standards are added to codify in the Standard Requirements methods for safety testing biologics intended for use in swine and sheep.

These requirements have been developed over a period of years in cooperation with interested members of the scientific community and have been utilized by the veterinary biologic industry either as approved requirements (in their Outlines of Production) or as proposed requirements under development. When satisfactory standard requirements have been developed by VS through experience with a number of Outlines of Production and/or through the development of scientific knowledge at NVSL or elsewhere, such requirements are codified in the regulations. Codification assures uniformity of requirements for licensees and makes information with regard to regulatory standards generally available to the public. This amendment will increase the consistency of test results for live bacterial vaccines and animal safety tests by specifying uniform procedures to be used. The amendment will also make uniform requirements available to the general public and applicable to all licensees.

Comments Received

On December 1, 1982, a notice of proposed rulemaking was published in the **Federal Register** at 47 FR 54091 stating that APHIS proposed to amend the Standard Requirements by adding 9 CFR 113.64, General Requirements for Live Bacterial Vaccines; 9 CFR 113.44, Swine Safety Test; and 9 CFR 113.45, Sheep Safety Test. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments concerning this notice. Comments were received from seven licensed veterinary biologics producers and one professional organization. Five of the comments received from licensed manufacturers and the comment received from the professional organization agreed with the proposal as written. Two of the licensed manufacturers had no objections to the proposal as written provided that the positive (reference) controls used for identity tests be supplied by NVSL. One licensed manufacturer suggested that wherever reference is made to Master Seed in 9 CFR 113.64, it should be changed to read Master Seed Bacteria.

Paragraph (c) of 9 CFR 113.64 requires that at least one of the four methods listed be used in the identity test. The National Veterinary Services Laboratories is prepared to provide a positive control (reference) for use in the identity test when such reference is available in their inventory of reagents. However, budgetary and other constraints may make it impossible to provide positive controls for all products. For certain unique products the manufacturer will be required to provide positive references which will be acceptable to VS. In addition, the section provides for use of positive controls developed by the manufacturer and approved by VS and/or paragraph

(c)(4) includes the use of applicable biochemical and cultural characteristics.

With reference to the suggestion that the term "Master Seed Bacteria" be used instead of "Master Seed," the Agency agrees and will make the appropriate changes.

After due consideration of all relevant matters, including the proposal set forth in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—[AMENDED]

Part 113 is amended by adding § 113.64 to read:

§ 113.64 General requirements for live bacterial vaccines.

When prescribed in an applicable Standard Requirement or in the filed Outline of Production, a live bacterial vacine shall meet the requirements in this section.

(a) *Purity test.* Final container samples of completed product from each serial and subserial, and samples of each lot of Master Seed Bacteria shall be tested for the presence of extraneous viable bacteria and fungi in accordance with the test provided in § 113.27(b)

(b) *Safety tests.* (1) Samples of completed product from each serial or first subserial and samples of each lot of Master Seed Bacteria shall be tested for safety in young adult mice in accordance with the test provided in § 113.33(b) unless:

(i) The bacteria or agents in the vaccine are inherently lethal for mice.

(ii) The vaccine is recommended for poultry.

(2) Samples of completed product from each serial or first subserial of live bacterial vaccine shall be tested for safety in one of the species for which the product is recommended as follows:

(i) Live bacterial vaccine recommended for use in dogs shall be tested as provided in § 113.40, except that dogs shall be injected with the equivalent of two doses of vaccine administered as recommended on the label.

(ii) Live bacterial vaccine recommended for use in cattle shall be tested as provided in § 113.41, except that calves shall be injected with the equivalent of two doses of vaccine administered as recommended on the label.

(iii) Live bacterial vaccine recommended for use in sheep shall be tested as provided in § 113.45.

(iv) Live bacterial vaccine recommended for use in swine shall be tested as provided in § 113.44.

(c) *Identity test.* At least one of the identity tests provided in this paragraph shall be conducted for the Master Seed Bacteria and final container samples from each serial or first subserial of completed biological product. A known positive control (reference) provided or approved by Veterinary Services shall be included in such tests.

(1) *Fluorescent antibody test.* The direct fluorescent antibody staining technique shall be conducted using suitable smears of the vaccine bacteria. Fluorescence typical for the bacteria concerned shall be demonstrated. Fluorescence shall not occur in control smears treated with specific antiserum.

(2) *Tube agglutination test.* A tube agglutination test shall be conducted with a suitable suspension of the vaccine bacteria using the constant antigen decreasing serum method with specific antiserum. Agglutination typical for the bacteria shall be demonstrated. Agglutination shall not occur with negative serum used as a control in this test.

(3) *Slide agglutination test.* The rapid plate (slide) agglutination test shall be conducted with suitable suspensions of the vaccine bacteria using the hanging drop, slide or plate method, with specific antiserum. Agglutination typical for the bacteria shall be demonstrated by microscopic or macroscopic observation. Agglutination shall not occur with negative serum used as a control in this test.

(4) *Characterization tests.* Applicable biochemical and cultural characteristics shall be demonstrated as specified in the filed Outline of Production.

(d) *Ingredient requirements.* Ingredients used for the growth and preparation of Master Seed Bacteria and of live bacterial vaccine shall meet the requirements provided in § 113.50. Ingredients of animal origin shall meet the applicable requirements provided in § 113.53.

(e) *Moisture content.*

(1) The maximum percent moisture in desiccated vaccines shall be stated in the filed Outline of Production and shall be established by the licensee as follows:

(i) *Prelicensing.* Data obtained by conducting accelerated stability tests and bacterial counts shall be acceptable on a temporary basis.

(ii) *Licensed products.* Data shall be obtained by determining the percent moisture and bacterial count at release and expiration on a minimum of 10 consecutive released serials.

(2) Final container samples of completed product from each serial and subserial shall be tested for moisture content in accordance with the test provided in § 113.29.

Part 113 is amended by adding §§ 113.44 and 113.45 to read:

§ 113.44 Swine safety test.

The swine safety test provided in this section shall be conducted when prescribed in a Standard Requirement or in the filed Outline of Production for a product.

(a) *Test procedure.* (1) Inject each of two swine of the minimum age for which the product is recommended with the equivalent of two doses of bacterial vaccine or 10 doses of viral vaccine.

(2) Administer vaccine in the manner recommended on the label.

(3) Observe swine each day for 21 days.

(b) *Interpretation.* If unfavorable reactions attributable to the product occur in either of the swine during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided,* That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

§ 113.45 Sheep safety test.

The sheep safety test provided in this section shall be conducted when prescribed in a Standard Requirement or in the filed Outline of Production for a product.

(a) *Test procedure.* (1) Inject each of two sheep of the minimum age for which the product is recommended with the equivalent of two doses of bacterial vaccine or 10 doses of viral vaccine.

(2) Administer vaccine in the manner recommended on the label.

(3) Observe sheep each day for 21 days.

(b) *Interpretation.* If unfavorable reactions attributable to the product occur in either of the sheep during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided,* That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

(37 Stat. 832–833 (21 U.S.C. 151–158))

Done at Washington, D.C., this 18th day of July 1983.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-19915 Filed 7-21-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Interest on Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is expanding the definition of "savings deposits," as that term is defined in the FDIC's regulations, to include Money Market Deposit Accounts. The Depository Institutions Deregulation Committee has recently authorized banks to establish accounts of this kind; the change is needed in order to clarify the status of these accounts under the regulations of the FDIC.

EFFECTIVE DATE: December 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Jules Bernard, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C., 20429, 202-389-4171.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Committee (DIDC) has authorized a new kind of interest-bearing deposit for banks, called a Money Market Deposit Account (MMDA).

MMDAs bear interest, but they have no prescribed minimum-maturity requirements. Accordingly, they would ordinarily be considered "savings deposits" as that term is defined in Part 329 of the FDIC's regulations. *Compare* 12 CFR 329.1 (c) & (d) *with* 12 CFR 329.1(e).

Part 329's definition of "savings deposit" contains a technical requirement that MMDAs do not meet, however. Banks must reserve the right to require at least 14 days' notice prior to permitting any withdrawals from "savings deposits." 12 CFR 329.1(e)(1)(iii). The notice requirement is only seven days in the case of MMDAs. 12 CFR 1204.122.

The FDIC's regulations provide for only two other categories of deposits: demand deposits, 12 CFR 329.1(a), and time deposits, 12 CFR 329.1(b). MMDAs cannot be classified as "demand deposits" because demand deposits may not bear interest. 12 U.S.C. 1818(g)(1); 12 CFR 329.2(a). Nor can they be classified as "time deposits" because deposits of this kind have fixed minimum maturities. *See* 12 CFR 329.1 (c) & (d), & 1204.121.

In order to accommodate MMDAs within the framework of Part 329, the FDIC is incorporating the DIDC's regulation defining and governing MMDAs, 12 CFR 1204.122, into Part 329's definition of "savings deposits." The new definition incorporates the DIDC's regulation by reference.

This action conforms existing regulations to the action previously taken by the DIDC pursuant to the requirements of section 327 of the Garn-St Germain Depository Institutions Act of 1982, 96 Stat. 1501. Because this is merely a conforming amendment, the Board of Directors finds that good cause exists for not following the prior notice, opportunity for comment and deferred effective date provisions of 5 U.S.C. 553 and the FDIC policy statement entitled "Development and Review of FDIC Rules and Regulations", 1 *Fed. Deposit Ins. Corp. Law, Reg., Related Acts* (FDIC) 5057, 44 FR 31007 (1979), and that following such provisions would be contrary to the public interest. For the same reasons, the amendment is considered to have become effective on December 14, 1982, the effective date of the DIDC action authorizing the MMDA. Because the amendment is not a "rule" as that term is defined in the Regulatory Flexibility Act at 5 U.S.C. 601(2), no regulatory flexibility analysis has been prepared.

The Board also considers that the amendment will not affect the recordkeeping or reporting requirements imposed on insured banks, and will not affect any bank's competitive status. Accordingly, a cost/benefit analysis of the amendment (including a small-bank impact statement) is not required.

List of Subjects in 12 CFR Part 329

Banks, banking, Interest rates.

In consideration of the foregoing, the FDIC amends Part 329 of title 12 of the Code of Federal Regulations as follows:

PART 329—INTEREST ON DEPOSITS

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, Pub. L. No. 797, 64 Stat. 881, 891 (12 U.S.C. 1819 and 1828), sec. 303, Pub. L. No. 96-221, 94 Stat. 146 (12 U.S.C. 1832).

2. 12 CFR 329.1 is amended by revising the introductory text in paragraph (e)(1) to read as follows:

§ 329.1 Definitions.

* * * * *

(e) *Savings Deposits.* (1) The term "savings deposit" means a Money Market Deposit Account authorized by § 1204.122 of the Depository Institutions Deregulation Committee's regulations (12 CFR 1204.122) or a deposit:

* * * * *

By order of the Board of Directors, July 18, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-19877 Filed 7-21-83; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 6559]

Scott Paper Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Vacating Order.

SUMMARY: This order reopens the proceeding and vacates in its entirety the Commission's order relating to Scott Paper Company issued on May 8, 1964 (29 FR 7507). The Commission has determined that order provisions requiring prior Commission approval of future acquisitions generally should not have terms exceeding 10 years.

DATES: Order issued Dec. 16, 1960. Modified Order issued May 8, 1964. Vacating Order issued June 22, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Selig S. Merber, Washington, D.C. 20580. (202) 634-4642.

SUPPLEMENTARY INFORMATION: In the Matter of Scott Paper Company, a corporation. Codification appearing at 26 FR 3638 and 29 FR 7507 is deleted.

List of Subjects in 16 CFR Part 13

Paper products, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Order Vacating Cease and Desist Order Issued on May 8, 1964 is as follows:

In the Matter of Scott Paper Company, a corporation; Docket No. 6559; order vacating cease and desist order issued on May 8, 1964.

By a petition filed on February 24, 1983, Scott Paper Company ("Scott") requests that the Commission reopen the proceeding in Docket No. 6559 and vacate the order issued by the

Commission on May 8, 1964. Pursuant to § 2.51 of the Commission's Rules of Practice, the petition was placed on the public record for comments. No comments were received.

Upon consideration of Scott's petition and supporting materials, and other relevant information, the Commission finds that the public interest warrants reopening and vacating the order.

In *Columbian Rope Company*, Docket No. C-1794, the Commission determined that order provisions requiring prior Commission approval of future acquisitions generally should not have terms exceeding ten years. In most cases, the Commission believes that such prior approval provisions will have served their remedial and deterrent purposes after ten years and that the findings upon which such provisions are based should not be presumed to continue to exist for a longer period of time. The perpetual prior approval provision in this case has been outstanding for 18 years. No particular circumstances warrant an exception from this general policy. Therefore, the Commission, in the exercise of its discretion, finds that it is appropriate to vacate the order.

Accordingly, it is ordered, that this matter be, and it hereby is reopened and that the order in Docket No. 6559, issued by the Commission on May 8, 1964, be and it is hereby vacated.

By direction of the Commission.

Issued: June 22, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-19790 Filed 7-21-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 82F-0107]

Indirect Food Additives: Polymers

Correction

In FR Doc. 83-17593, beginning on page 30361 in the issue of Friday, July 1, 1983, the paragraph designated (a)(1) in § 177.1500 (at the end of the third column of page 30361) should be designated (a)(10).

BILLING CODE 1505-01-M

21 CFR Parts 436 and 442

[Docket No. 83N-0210]

Antibiotic Drugs; Cefazolin Sodium Injection

AGENCY: Food and Drug Administration.

ACTION: Flinal rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for new antibiotic dosage form, cefazolin sodium injection. The manufacturer has supplied sufficient data and information to established its safety and efficacy.

DATES: Effective July 22, 1983; comments, notice of participation, and request for hearing by August 22, 1983; data, information, and analyses to justify a hearing by September 20, 1983.

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

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic dosage form, cefazolin sodium injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 436 and 442 (21 CFR Parts 436 and 442) to provide for the inclusion of accepted standards for the product.

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

List of Subjects

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics, Cepha.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 436 and 442 are amended as follows:

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

1. Part 436 is amended by adding new § 436.342, to read as follows:

§ 436.342 High-pressure liquid chromatographic assay for cefazolin.

(a) *Equipment.* A suitable high-pressure liquid chromatograph equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder of at least 25.4 centimeter deflection; and

(5) A 30-centimeter column having an inside diameter of 4.0 millimeters and packed with octadecyl silane chemically bonded to porous silica or ceramic microparticles, 5 to 10 micrometers in diameter, USP XX.

(b) *Reagents*—(1) *Buffer solution, pH 3.6.* Transfer 0.9 gram of sodium phosphate, dibasic USP and 1.298 grams of citric acid USP to a 1-liter volumetric flask. Dissolve and dilute to volume with distilled water and mix.

(2) *Buffer solution, pH 7.0.* Transfer 5.68 grams of sodium phosphate, dibasic USP and 3.63 grams of potassium phosphate monobasic to a 1-liter volumetric flask. Dissolve and dilute to volume with distilled water and mix.

(3) *Mobile phase.* Mix buffer solution, pH 3.6: acetonitrile (9:1). Filter through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph pumping system.

(4) *Internal standard solution.* Transfer 1.2 grams of salicylic acid to a 200-milliliter volumetric flask. Dissolve in 10 milliliters of methyl alcohol, dilute to volume with buffer solution, pH 7.0, and mix.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 2 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the working

standard that is at least 50 percent of scale. The minimum between peaks must be no more than 2 millimeters above the initial baseline.

(d) *Preparation of working standard and sample solutions*—(1) *Working standard solution.* Place approximately 50 milligrams of cefazolin working standard, accurately weighed, into a 50-milliliter volumetric flask. Dissolve and dilute to volume with buffer solution, pH 7.0, and mix. Transfer 4.0 milliliters of this solution to a 200-milliliter volumetric flask, add 5.0 milliliters of internal standard solution, dilute to volume with buffer solution, pH 7.0, and mix.

(2) *Sample solution.* Place approximately 50 milligrams of the sample, accurately weighed, into a 50-milliliter volumetric flask. Dissolve and dilute to volume with buffer solution, pH 7.0, and mix. Transfer 4.0 milliliters of this solution to a 200-milliliter volumetric flask, add 5.0 milliliters of internal standard solution, dilute to volume with buffer solution, pH 7.0, and mix.

(e) *Procedure.* Using the equipment, mobile phase, and operating conditions listed in paragraphs (a), (b), and (c) of this section, inject 10 microliters of the working standard solution prepared as directed in paragraph (d)(1) of this section into the chromatograph. After separation of the working standard solution has been completed, inject 10 microliters of the sample solution prepared as described in paragraph (d)(2) of this section into the chromatograph and repeat the procedure described for the working standard solution. Allow an elution time sufficient to obtain satisfactory separation of the expected components. The elution order is void volume, salicylic acid and cefazolin.

(f) *Calculation.* Calculate the micrograms of cefazolin per milligram of sample as follows:

$$\text{Micrograms of cefazolin per milligram} = \frac{R_u \times P_s \times 100}{R_s \times C_u \times (100 - \%)}$$

where:

R_u = Area of the cefazolin peak in the chromatogram of the sample [at a retention time equal to that observed for the standard] /Area of internal standard peak;

R_s = Area of the cefazolin peak in the chromatogram of the cefazolin working standard/Area of internal standard peak;

P_s = Cefazolin activity in the cefazolin working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

% = Percent moisture content of the sample.

PART 442—CEPHA ANTIBIOTIC DRUGS

2. Part 442 is amended:

a. By adding new § 442.10, to read as follows:

§ 442.10 Cefazolin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefazolin is 3-[[(5-methyl-1, 3, 4-thiadiazol-2-yl)-thio]methyl]-7-[2-(1*H*-tetrazol-1-yl) acetamido]-3-cephem-4-carboxylic acid. It is so purified and dried that:

(i) Its cefazolin content is not less than 950 micrograms and not more than 1,030 micrograms of cefazolin per milligram calculated on an anhydrous basis.

(ii) Its moisture content is not more than 2 percent.

(iii) Its heavy metals content is not more than 20 parts per million.

(iv) It gives a positive identity test for cefazolin.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for cefazolin content, moisture, heavy metals, and identity.

(ii) Samples, if required by the Director, National Center for Drugs and Biologics: Nine packages, each containing approximately 500 milligrams, and one package containing approximately 5 grams.

(b) *Tests and methods of assay*—(1) *Cefazolin content.* Proceed as directed in § 436.342 of this chapter.

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

(3) *Heavy metals.* Proceed as directed in § 436.208 of this chapter.

(4) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the cefazolin working standard.

b. By redesignating existing § 442.211 as § 442.211a and by adding new §§ 442.211 and 442.211b, to read as follows:

§ 442.211 Cefazolin sodium injectable dosage forms.

§ 442.211a Sterile cefazolin sodium.

* * * * *

§ 442.211b Cefazolin sodium injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefazolin sodium injection is a frozen aqueous solution of cefazolin sodium in an isoosmotic diluent. Each milliliter contains cefazolin sodium equivalent to either 10 milligrams or 20 milligrams of cefazolin per milliliter. Its cefazolin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cefazolin that it is represented to contain. It is sterile. It is nonpyrogenic. Its pH is not less than 4.5 and not more than 7.0. It passes the identity test. The cefazolin used conforms to the standards prescribed by § 442.10(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Requests of tests and assays on:

(a) The cefazolin used in making the batch for cefazolin content, moisture, heavy metals, and identity.

(b) The batch for cefazolin content, sterility, pyrogens, pH, and identity.

(ii) Samples, if required by the Director, National Center for Drugs and Biologics:

(a) The cefazolin sodium used in making the batch: 10 packages, each containing approximately 500 milligrams.

(b) The batch:

(1) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Cefazolin content.* Proceed as directed in § 436.342 of this chapter, preparing the sample solution and calculating the cefaxolin content as follows:

(i) *Preparation of sample solution.* Using a suitable hypodermic needle and syringe, transfer an accurately measured representative portion from each container, equivalent to 40 milligrams of cefazolin, to a 100-milliliter volumetric flask. Dilute to volume with buffer solution, pH 7.0, and mix. Transfer 10.0 milliliters of this solution to a 200-milliliter volumetric flask, add 5.0 milliliters of internal standard solution, dilute to volume with buffer solution, pH 7.0, and mix

(ii) *Calculation.* Calculate the milligrams of cefazolin per milliliter of sample as follows:

$$\text{Milligrams of cefazolin per milliliter} = \frac{R_u \times P_s \times d}{R_s \times 1.000}$$

where:

R_u = Area of the cefazolin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard) /Area of internal standard peak;

R_s = Area of cefazolin peak in the chromatogram of the cefazolin working standard /Area of internal standard peak;

P_s = Cefazolin activity in the cefazolin working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(c) of this chapter, using the undiluted solution.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

(5) *Identity.* The high-pressure liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the cefazolin working standard.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective July 22, 1983. Interested persons may, however, on or before August 22, 1983, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m., and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before August 22, 1983, a written notice of participation and request for hearing, and (2) on or before September 20, 1983, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

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

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

Effective date. This regulation shall be effective July 22, 1983.

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

Dated: July 13, 1983.

James C. Morrison,

Assistant Director for Regulatory Affairs.

[FR Doc. 83-19535 Filed 7-21-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Amendment of Certain Regulations

Correction

In FR Doc. 83–17407, appearing on page 30363 in the issue of Friday, July 1, 1983, the number in the first line of § 540.173a(c)(2) in the second column should read, "050604".

BILLING CODE 1505-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Quali-Tech Products, Inc., providing for use of 50-gram-per-pound lincomycin premixes to manufacture intermediate premixes subsequently used in swine feeds for treatment and/or control of dysentery.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Quali-Tech Products, Inc., 318 Lake Hazeltine Drive, Chaska, MN 55318, is sponsor of NADA 132–925 filed on its behalf by the Upjohn Co. The NADA provides for use of 50-gram-per-pound lincomycin premixes to manufacture 4-, 5-, 8-, 10-, and 20-gram-per-pound lincomycin intermediate premixes for subsequent incorporation into complete swine feeds. The swine feeds are used for control and/or treatment of swine dysentery as provided in 21 CFR 558.325(f)(2)(i), (ii), and (iii). The basis of approval of this NADA is discussed fully in the freedom of information (FOI) summary. Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval.

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

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

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), § 558.325 is amended by adding new paragraph (b)(8) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(8) Premix levels of 4, 5, 8, 10, and 20 grams per pound have been granted to No. 016968 for use as in paragraph (f)(2)(i), (ii), and (iii) of this section.

* * * * *

Effective date. July 22, 1983.

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

Dated: July 15, 1983.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83-19907 Filed 7-21-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 18

[T.D. 7872]

Certain Elections Under the Subchapter S Revision Act of 1982

Correction

In FR Doc. 83-2029 beginning on page 3590 in the issue of Wednesday, January 26, 1983, make the following corrections:

1. In § 18.1362-1, on page 3591, third column, paragraph (b)(2) should end in the sixth line with the words "does not consent to the election.". The text beginning "the election is treated . . ." should have appeared on a separate line.

2. In § 18.1378-1 (b)(3)(ii)(B), on page 3594, first column, twenty-five lines from the top of the page, the reference to "paragraph (b)(ii)(A)" should have been to "paragraph (b)(3)(ii)(A)". In the twenty-eighth line, the reference to "paragraph (b)(i)" should have been to "paragraph (b)(3)(i)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval of Modification of Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing approval of a modification of the Ohio permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) concerning the definition of "affected area" in the Ohio Administrative Code (OAC). This document amends 30 CFR Part 935 to reflect approval of the modification. The effect of this action is to confirm that the definition of "affected area" approved by the Secretary of the Interior on August 16, 1982, as part of Ohio's original program approval has remained in effect since that date and is effective now.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227.

SUPPLEMENTARY INFORMATION: The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982, **Federal Register** (47 FR 34688), following the comment period and public hearing as announced in the January 26, 1982, **Federal Register** (47 FR 3571-73).

On October 13, 1982, Ohio submitted to OSM additional materials to amend its conditionally approved State regulatory program. The materials consisted of the following five amendments to rules contained in the State program:

1. Amendment to OAC 1501:13-1-02 Definitions, revising the definition of "affected area."

2. Amendment to OAC 1501:13-1-07 Applicability, clarifying the requirements for operations continuing to operate under interim program permits.

3. Amendment to OAC 1501:13-4-03 Permit Application Requirements for Legal, Financial, Compliance and Related Information, making it the obligation of the applicant to include information on notices of violation in the permit application.

4. Amendment to OAC 1501:13-4-04 Permit Application requirements for Information on Environmental Resources, requiring slope measurements included in the application for a permit to be in "degrees".

5. Amendment to OAC 1501:13-4-05 Permit Application requirements for Reclamation and Operations Plans, deleting the provision exempting operators with planned long-term existence from the requirement to submit a description of the postmining land use with the application.

None of the amendments was intended to satisfy conditions of program approval. On November 3, 1982, OSM published a notice in the **Federal Register** (47 FR 49869) announcing receipt of the materials and inviting public comment on whether the materials submitted should be approved and incorporated into the Ohio regulatory program. The public comment period ended on December 10, 1982. No one appeared to present testimony at a public hearing that was scheduled for December 8, 1982, and no public comments were received during the comment period.

Findings

On January 31, 1983, OSM approved four of the amendments and disapproved the proposed amendment to OAC 1501:13-1-02(E) concerning the definition of "affected area" (48 FR 4282). OSM determined that the proposed definition would have eliminated, with respect to underground mining activities, the land or water located above underground mine workings.

The State's definition of "affected area" in OAC 1501:13-1-02(E) as approved by the Secretary on August 10, 1982, had been found to be consistent with the definition of "affected area" in 30 CFR 701.5. The definition of "affected area" in 30 CFR 701.5 at that time, included, with respect to underground mining activities, any water or surface land upon or in which those activities, are conducted or located; and land or water which is located above underground mine workings. Therefore, in the January 31 **Federal Register** notice, OSM found that the proposed Ohio definition of "affected area" was not consistent with 30 CFR 701.5 and the proposed amendment was disapproved. On February 9, 1983, OSM's Columbus Field Office Director notified the Ohio Division of Reclamation that it should take appropriate action to ensure that the original approved definition in the Ohio Administrative Code remained in effect.

The original approved definition was re-adopted by emergency rulemaking procedures with an effective date of May 2, 1983. The emergency rule will expire July 30, 1983. During that period, the Ohio Division of Reclamation will be adopting the definition through its normal rulemaking procedures. The Ohio Division of Reclamation notified all underground coal mine operators by memorandum dated May 4, 1983, that the Secretarially-approved definition had been reinstated as of May 2, 1983.

Pursuant to 30 CFR 732.17, any change in a State's regulatory program requires Secretarial approval. Since the Secretary has never approved any change to the Ohio definition of "affected area", the definition contained in Ohio's program approved effective August 16, 1982, has remained in effect since that date and remains effective now. Thus, while OSM approves the Ohio Division of Reclamation's change back to the original provision, the Ohio program has remained substantively unchanged.

The approval of this modification to the Ohio program is effective as of May 2, 1983. This retroactive approval will ensure that there is no effect on the Division's authority to require all the permit application information which is required of underground operators under the approved definition of "affected area."

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

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

Accordingly, 30 CFR Part 935 is amended to indicate approval of the Ohio program amendment as set forth herein.

Dated: July 18, 1983.

James R. Harris,

Director, Office of Surface Mining.

PART 935—OHIO

30 CFR 935.15 is amended by adding paragraph (d) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(d) The emergency rulemaking effective May 2, 1983, by which the original approved language of Ohio revised rule OAC 1501:13–1–02(E) was re-adopted by the Ohio Division of Reclamation is approved effective May 2, 1983.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–19020 Filed 7–21–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[HW–1–FRL 2402–5]

Hazardous Waste Management Program; New Hampshire, Vermont, Massachusetts, and Rhode Island; Requests for Extension of Application Deadline for Interim Authorization, Phase II

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Extension of Application Submission and Interim Authorization Period.

SUMMARY: EPA has received requests from the States of New Hampshire, Vermont, Massachusetts and Rhode Island for extensions beyond the July 26, 1983, deadline for applications for all components of interim authorization Phase II under the Resource Conservation and Recovery Act of 1976, as amended. EPA is granting these extensions. One effect of this action is to allow these States to submit their applications after July 26, 1983. It also avoids termination on July 26 of the interim authorization which EPA granted previously to these States for Phase I and in the case of New Hampshire for the Phase II, Components A and B, portions of the hazardous waste program.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Dennis A. Huebner, Chief, State Waste Programs Branch, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–6883.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122 (c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of interim authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 332378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization.

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator may, for good cause, extend the July 26, 1983, deadline for submission of the interim authorization application and the deadline for termination of the approval of the State program. Such extensions on the part of the Regional Administrator are limited to those instances where the State is applying for the remainder of interim authorization or is applying directly for final authorization. The States of New Hampshire, Vermont, Massachusetts and Rhode Island have initiated efforts to receive some or all components of Phase II interim authorization but have experienced delays in promulgating all of the necessary regulations. In order to expedite final authorization all four States have agreed to focus on the development of programs and applications which demonstrate equivalency and consistency with the federal program in accordance with the schedules outlined in this register notice. These schedules do not eliminate the possibility that the States may apply for and receive Phase II interim authorization for some or all components prior to the receipt of final authorization.

Later in this notice additional details on each State's request and a specific schedule for their submission of draft and complete final authorization applications are presented.

[Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).]

New Hampshire: New Hampshire received Phase I interim authorization on November 3, 1981. Phase II, Components A and B interim authorization was granted on March 31, 1983. However, New Hampshire's ability to apply for Phase II Component C, interim authorization before July 26, 1983, was delayed due to the State's 1983 legislative session placing unforeseen, additional demands upon the program development staff. The 1983 legislative session is drawing to a close and New Hampshire has committed to the following schedule for applying for final authorization:

—November 30, 1983—Submit draft final authorization application.
—July 1, 1984—Submit complete final authorization applications.

Vermont: Vermont received Phase I interim authorization on January 8, 1981. On May 5, 1983, EPA concluded it could not grant Phase II, interim authorization to the State until certain regulatory changes were made. Vermont expects to address these changes and the draft final authorization application must contain the necessary draft legislation and regulations to deal with control of waste economic poisons in a manner equivalent to and consistent with RCRA, deletion of the Variance Board, modification where necessary to make Vermont's Best Control Technology Standards equivalent to and consistent with RCRA and identification of hazardous waste by means of characteristics rather than exclusive lists. The draft final authorization application must also contain a schedule for filing legislation and/or adopting the required regulations. Vermont has committed to the following schedule for applying for final authorization:

—January 1, 1984—Submit draft final authorization application.
—July 1, 1984—Submit complete final authorization application.

Massachusetts: Massachusetts received Phase I interim authorization on February 25, 1981. The regulatory development process which is necessary for Massachusetts to obtain Phase II interim authorization had to be extended due to the unforeseen level of written comments which were received following the public hearings on these regulations. The submittal of over four hundred pages of public comment and the State's response to these comments introduced delays in the regulation promulgation schedule. The State is actively addressing these comments and Massachusetts has committed to the following schedule for applying for final authorization.

—January 1, 1984—Submit draft final authorization application.
—July 1, 1984—Submit complete final authorization application.

Rhode Island: Rhode Island received Phase I interim authorization on May 29, 1981. On April 22, 1983, Rhode Island submitted a draft application for Phase II, Component A interim authorization. The State is aware there are several legislative and regulatory changes that are necessary for it to receive final authorization. The draft final authorization application must contain the necessary draft legislation and regulations to deal with the issue of the consistency with RCRA of the State hazardous waste siting regulations, regulations necessary to allow the State to regulate incinerators and land disposal facilities in a manner equivalent and consistent with RCRA, and regulations necessary to establish a hazardous waste universe equivalent to and consistent with RCRA. The draft final authorization application must also contain a schedule for filing legislation and/or adopting the required regulations. Rhode Island has committed to the following schedule for applying for final authorization:

—December 1, 1983—Submit draft final authorization application.
—May 1, 1984—Submit complete final authorization application.

Decision: In consideration of the above requests including the schedules for submission of draft and complete applications for final authorization, I find there is good cause to grant the States' requests for extensions beyond the deadline for applying for all Phases/Components of interim authorization. Therefore, the States of New Hampshire, Vermont, Massachusetts and Rhode Island must submit draft and complete final authorization applications by the dates indicated earlier in this notice. If a State fails to meet the dates specified above, approval of the State program will terminate automatically and administration of the hazardous waste management program in that State will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: July 14, 1983.

Michael R. Deland,

Regional Administrator.

[FR Doc. 83-19879 Filed 7-21-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 82-759; FCC 83-343]

Amendment of the Commission's Rules to Allow Domestic Public Land Mobile Radio Service Mobile Units To Operate on UHF Channel 14 Frequencies at Pittsburgh, Pennsylvania

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of Frequency Allocations for Domestic Public Land Mobile Radio Service in Pittsburgh. The present rule allocating Channel 18 frequencies for mobile unit use has proved unusable due to adjacent channel UHF television operations. The amended rule deletes the Channel 18 frequencies and substitutes, in their place, twelve channel 14 frequencies that are currently assigned for additional base station use.

EFFECTIVE DATE: August 22, 1983.

ADDRESS: Secretary's Office, Room 222, FCC, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gene Belardi, Common Carrier Bureau (202) 632-6450.

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service, Radio common carriers.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 22.501(k) and Table A of § 22.501 of the Commission's Rules to allow Domestic Public Land Mobile Radio Service mobile units to operate on UHF Channel 14 frequencies at Pittsbugh, Pennsylvania, CC Docket No. 82-759.

Adopted July 14, 1983.
Released July 19, 1983.
By the Commission.

Background

1. On November 12, 1982, the Commission released a *Memorandum Opinion and Order and Notice of Proposed Rulemaking* (NPRM), 47 FR 53752 (1982), proposing to amend Section 22.501(k) and Table A of Section 22.501 of the Commission's rules to allow UHF Channel 14 frequencies at Pittsburgh, Pennsylvania, to be used by both mobile units and base stations. Under Section 22.501, UHF channel 18 frequencies were allocated only for mobile unit use and UHF channel 14 frequencies only for base station use.[1] In particular, we proposed to: (a) Delete the Channel 18 allocation for mobile units in Pittsburgh; (b) retain 12 frequencies in the 470 MHz band for base station use; and (c) assign 12 frequencies in the 473 HMz band (originally assigned for base station use) for mobile unit use. Interested persons were invited to file comments on or before December 13, 1982, and reply comments on or before December 28, 1982.

2. This proceeding was instituted after the Commission became aware that two-way Domestic Public Land Mobile Radio Service (DPLMRS) could not be provided on the Docket No. 21039 UHF frequencies allocated for the Pittsburgh area.[2] Our engineering staff determined that UHF Channel 18 frequencies assigned for mobile units use in the Pittsburgh area could not be utilized because their use would cause harmful interference to nearby UHF television stations, WJAN at Canton, Ohio, operating on Channel 17, and WJNL at Johnstown, Pennsylvania, operating on Channel 19.[3] In order to remedy this situation, we proposed to split channel 14 frequencies in half for both base and mobile station operations.

3. Comments were received only from The Message Center (MC) and ACA and they wholeheartedly endorsed our proposed action as offering the best solution for providing much needed additional mobile service in the Pittsburgh area. In addition, they indicated their readiness to apply for authorization to provide service under our reallocation proposal.

Discussion

4. We have previously determined that there is a public need for additional DPLMRS in the Pittsburgh area.[4] However, because channel 18 frequencies proved to be unusable, our efforts to make service available have been frustrated. Reassignment of half of the channel 14 frequencies for mobile unit use appears to be the most efficient and reasonable way to facilitate service. Furthermore, the 12-channel system we are adopting here is entirely consistent with our earlier finding that spectrum efficiencies may be best achieved by assigning groups of 12 frequency pairs because 12 frequency pairs are capable of being trunked together to provide an acceptable grade of service. 69 FCC 2d at 1565. While we realize that this action will reduce the number of frequencies allocated in Pittsburgh from 24 to 12, it is clearly preferable to retaining 24 frequencies which are unusable. In view of the foregoing, we conclude that the public interest will be served by adoption of this amendment.

Regulatory Flexibility Act

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to this rulemaking proceeding to amend the table of assignments for base and mobile stations in DPLMRS at Pittsburgh, Pennsylvania. The change relates to only one city, Pittsburgh, Pennsylvania, and will not have a significant economic impact on a substantial number of small entities.

6. Accordingly, it is ordered, pursuant to 47 U.S.C. 154(i), 301 and 303(r), that Part 22 of Title 47 of the Code of Federal Regulations is amended as set forth in the Attachment to this Order. These amendments shall become effective 30 days after publication of this document in the **Federal Register.**

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

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 22—[AMENDED]

47 CFR Part 22 is amended as follows:

Paragraph (k) of § 22.501 is amended by revising Pittsburgh in the table at the beginning of paragraph (k) and by revising table A in paragraph (k)(5)(i) to read as follows:

22.501 Frequencies.

* * * * *

(k) * * *

PITTSBURGH

Channel 14

470.0125	473.0125
470.0375	473.0375
470.0625	473.0625
470.0875	473.0875
470.1125	473.1125
470.1375	473.1375
470.1625	473.1625
470.1875	473.1875
470.2125	473.2125
470.2375	473.2375
470.2625	473.2625
470.2875	473.2875

* * * * *

(5) * * *

(i) * * *

TABLE A.—FREQUENCY AVAILABLE FOR LAND MOBILE USE

Urbanized area	Geographic center		Frequencies (MHz)
	N. latitude	W. longitude	
Boston, Mass	42°21'24"	71°03'24"	Channel 14 470–476, Channel 16 482–488.
Chicago, Ill	41°52'26"	87°38'22"	Channel 14 470–476, Channel 15 476–482.
Cleveland, Ohio[1]	41°29'51"	81°41'50"	Channel 14 470–476, Channel 15 476–482.
Dallas, Tex	32°47'09"	96°47'37"	Channel 16 482–488.
Detroit, Mich.[2]	42°19'48"	83°02'57"	Channel 15 476–482, Channel 16 482–488.
Houston, Tex	29°45'26"	95°21'37"	Channel 17 488–494.

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[1] *See* Memorandum Opinion and Order in Docket No. 21039, 69 FCC 2d 1555, 1579 (1978).

[2] The problem was brought to our attention by Associated Communications of America, Inc. (ACA), when it requested a waiver of existing Section 22.501(k) in order to construct a 12 channel, 2-way mobile system at Pittsburgh, to operate on Channel 14. The Common Carrier Bureau, pursuant to delegated authority, denied the waiver request to use Channel 14 for mobile unit operations, on the ground that a waiver was not the proper vehicle for what amounted to a rule change. We denied ACA's Application for Review, agreeing with the Bureau that a rulemaking proceeding is preferable to an individual waiver proceeding since the proposed change would result in reassignment of spectrum.

[3] To ensure protection of UHF stations, Section 22.501, Table G, requires a 90 mile separation between a base station and a protected UHF televison station where the mobile unit associated with that base station operates on an adjacent UHF channel. Section 22.501(l)(1) permits base station operations only within 50 miles of the geographic center of Pittsburgh. Commission records indicate that WJAN and WJNL are 72.9 and 48.2 miles from Pittsburgh, respectively. Section 22.501(5)(ii) of the Rules allows for separation distances less than 90 miles upon a proper engineering showing and coordination with the Mass Media Bureau. Here, however, the downtown area of Pittsburgh cannot be served without causing interference to WJNL.

[4] *See* First Report and Order in Docket No. 18261, 23 FCC 2d 325, 337 (1970); Second Report and Order in Docket No. 18261, 30 FCC 2d, 221, 232–234 (1971); and Memorandum Opinion and Order in Docket No. 21039, *supra* at 1569.

TABLE A.—FREQUENCY AVAILABLE FOR LAND MOBILE USE—Continued

Urbanized area	Geographic center		Frequencies (MHz)
	N. latitude	W. longitude	
Los Angeles, Calif	34°03'15"	118°14'28"	Channel 14 470-476, Channel 20 506-512.
Miami, Fla	25°46'37"	80°11'32"	Channel 14 470-476.
New York, Northeastern New Jersey	40°45'06"	73°59'39"	Channel 15 470-476,
Philadelphia, Pa	39°56'58"	75°09'21"	Channel 15 476-482, Channel 19 500-506, Channel 20 506-512.
Pittsburgh, Pa	40°26'19"	80°00'00"	Channel 14 470-476.
San Francisco-Oakland, Calif	37°46'39"	122°24'40"	Channel 16 482-488,
Washington, D.C., Maryland, Virginia	38°53'51"	77°00'33"	Channel 17 488-494. Channel 17 488-494, Channel 18 494-500.

[1] Channels 14 and 15 are not available in Cleveland, Ohio, until further order from the Commission.
[1] Channels 15 and 16 are not available in Detroit, Mich., until further order from the Commission.

* * * * *

[FR Doc. 83-19693 Filed 7-21-83; 8:45 am]
BILLING CODE 6712-01-M

[MM Docket No. 83-73; RM-4261]

47 CFR Part 73

FM Broadcast Stations in Key Largo, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 280A to Key Largo, Florida, as that community's first local aural broadcast service, in response to a petition filed by Florida Keys Broadcasting Corp.

DATE: Effective: September 12, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Key Largo, Florida) MM Docket No. 83-73, RM-4261.

Adopted: June 13, 1983.
Released: July 13, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making*, 48 FR 7751, published February 24, 1983, proposing the assignment of Channel 280A to Key Largo, Florida, as that community's first local aural service, in response to a petition filed by Florida Keys Broadcasting Corporation ("petitioner"). Supporting comments were filed by petitioner in which it reaffirmed its intent to apply for the channel, if assigned. Opposing comments were filed by TK Communications, Inc. ("TK"), to which the petitioner responded.

2. In its comments, TK, licensee of FM Station WSHE, Fort Lauderdale, expresses concern with the impact that BC Docket No. 80-90 [1] may have on its future operation, if the Key Largo assignment is made. TK notes that the proceeding would require existing Class C stations to operate at minimum facilities of 100 kW at 305 meters in order to retain their present Class C status. However, TK contends that because available sites, which could accommodate a tower of the height ultimately required by the proposed rules are scare in its vicinity, the proposed assignment at Key Largo may effectively preclude the future improvement of its facilities.

3. In response, petitioner alleges that TK's comments are premised on mere speculation since it has not demonstrated that the present transmitter site of Station WSHE would be unsuitable to accommodate any future improvement of its facilities. Moreover, petitioner asserts that TK has not shown how any presumed site selection constraints would require it to relocate in order to utilize a higher antenna for its station. Therefore, in view of the lack of factual allegations to demonstrate how the instant proposal would affect TK's future operation, petitioner urges such objections be dismissed.

4. After reviewing the comments filed herein, we have determined that TK's objections to the proposal are without merit since its underlying concern stems not from the proposed assignment, *per se*, but rather from the possible impact BC Docket No. 80-90 may have on its future operation. TK's apprehension appears to be that implementation of the proposed rules would require it to relocate its transmitter. However, other than presenting vague implications, TK has not established any evidence to reflect that it even actually intends to relocate its transmitter in the near future. We do not believe that TK has adequately demonstrated that its present site would be unsuitable to effectuate such improvements nor that other sites are unavailable. TK's objections appear to be based on speculation, particularly since at the time of its comments, it was not aware of the actual decision made in BC Docket 80-90.

5. On the basis of the foregoing, we believe that the benefits of the proposal are clear since Key Largo could receive a first local aural service. As we indicated in the *Notice*, the proposed assignment of Channel 280A to Key Largo requires a site restriction 0.63 mile south of the community to avoid short-spacing to Station WSHE (Channel 278), Fort Lauderdale, Florida.

6. 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 §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective September 12, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, IS AMENDED as follows:

City	Channel No.
Key Largo, Florida	280A

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

8. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-19807 Filed 7-21-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-567; RM-4149]

TV Broadcast Stations in Rancho Palos Verdes, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

[1] On May 26, 1983, the Commission adopted a *Report and Order* in BC Docket 80-90 to enable additional FM assignments to be made.

ACTION: Final rule.

SUMMARY: Action taken herein denies a petition for reconsideration filed by Mark Pierce of our previous action assigning UHF TV Channel 44 to Rancho Palos Verdes, California.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Memorandum Opinion and Order; Proceeding Terminated

Adopted: June 17, 1983.
Released: July 13, 1983.

By the Chief, Policy and Rules Divisions.

In the Matter of Amendment of Section 73.606(b), Table of Assignments, TV Broadcast Stations (Rancho Palos Verdes, California); BC Docket No. 82–567, RM–4149.

1. Before the Commission is a petition filed by Mark Pierce ("Pierce") for reconsideration of the Commission's *Report and Order*, 48 FR 1492, published January 13, 1983, assigning UHF Television Channel 44 to Rancho Palos Verdes as that community's first television broadcast service. An opposition to the petition was filed by South Bay Broadcasting Company, Inc. ("South Bay") to which Pierce responded.

2. In his petition for reconsideration, Pierce reiterates arguments he had previously raised at an earlier stage in this proceeding. Specifically, he contends that a full service television station would enable a large number of persons residing beyond Rancho Palos Verdes to receive the proposed station's signal. Pierce asserts that economic realities would inevitably encourage a full service station to concentrate its programming toward the more profitable segment of the marketplace, in lieu of local interests. Thus, Pierce suggests that since Rancho Palos Verdes is presently served by a local cable system, the scarcity of available spectrum on the UHF television band in nearby Los Angeles dictates that a low power television station, rather than a full service television station should be made available to address the needs and interests of the community.

3. At the outset, it should be noted that in a recent *Report and Order* in BC Docket No. 82–320, 48 FR 12094, published March 23, 1983, the Commission abolished, *inter alia*, the so-called "Berwick" doctrine since it was found to be ineffective as a test for determining an applicant's intent. The Commission stated therein "* * * [w]e no longer see a substantial likelihood that, merely because of proximity to larger urban areas, licensees will provide inadequate service to their communities." The Commission further stated that "* * * [such] polic[y] provides incumbent stations a means to delay competition from new suburban stations and thereby retard[s] competition in metropolitan markets." Therefore, the Commission reasoned that this policy [1] was undermining the goal of Section 307(b) to distribute broadcast services fairly and equitably.

4. Furthermore, we note that allocations are made to communities in response to a party's stated expression of interest and commitment to apply for a facility. See, *Floresville, Texas*, 53 F.C.C. 2d 1138 (1975). Here we have an applicant [2] who stands ready to implement a first local television broadcast service to Rancho Palos Verdes. Such service would be preferable to the limited coverage that could be provided by a low power TV station. In fact, we can assign a full service television channel without regard to considering the possibility of a low power operation on that channel. See § 74.702 of the Commission's Rules.

5. As for coverage of local community issues, such considerations are generally treated at the application stage. At this phase of the process, we have no basis for finding that a full service station could not do as good a job in addressing the community's needs as would a low power TV station.

6. In view of the above, we find that Pierce has provided no new information to substantiate his arguments. Therefore, we reaffirm our previous decision to assign UHF TV Channel 44 to Rancho Palos Verdes, California.

7. Accordingly, It is ordered, That the petition for reconsideration filed by Mark Pierce is denied.

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

9. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

(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 Mass Media Bureau.

[FR Doc. 83–19695 Filed 7–21–83; 8:45 am]

BILLING CODE 6712–01–M

[1] The Commission noted that the "Berwick" doctrine was seldom invoked in licensing proceedings for television stations since, by virtue of their technical specifications, *they are designed to serve regional areas.*

[2] There are currently eight applications on file for Channel 44 at Rancho Palos Verdes.

47 CFR Part 73

[MM Docket No. 83–85; RM–4266]

FM Broadcast Stations in Silverton, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 257A to Silverton, Colorado, in response to a petition filed by Silverton Christian Broadcasting. The assigned channel could provide a second FM service to Silverton.

DATE: Effective September 12, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Silverton, Colorado) MM Docket No. 83–85, RM–4266.

Adopted: June 13, 1983.
Released: July 13, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 7756, published February 24, 1983, proposing the assignment of FM Channel 257A to Silverton, Colorado, as that community's second FM assignment, in response to a petition filed by Silverton Christian Broadcasting ("petitioner"). Petitioner filed comments in support of the *Notice* and reaffirmed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. Longhorn Communications, Inc., licensee of radio Station KDRW, in Silverton, submitted an opposition to the proposal. Petitioner submitted reply comments to the opposition.

2. In its opposing comments, Longhorn Communications, Inc. urged the Commission not to assign Channel 257A to Silverton, Colorado, because the community is already having difficulty providing financial support to the existing FM station. Longhorn argues that Silverton's population of 800 people could not accommodate three broadcasting radio stations (one AM and 2 FM stations). Longhorn Communications further states that this

assignment would be a poor use of the frequency and would not be in the public interest. Finally, Longhorn asserts that the proposal for a religious station should not excuse petitioner from the responsibility of maximum coverage. Because Silverton is located in a valley surrounded by mountains, the FM station can, at best, only cover about 5 miles. Longhorn believes that because of these obstacles, the operation of the new FM station on Channel 257A would be short-lived.

3. In its reply comments to the opposition, petitioner states that with regard to "financial viability" Silverton Christian Broadcasting believes that as a responsible broadcaster, it can meet its financial obligations. Petitioner cites a statement from Longhorn Communications that it does intend to move its station to Cascade Village, Colorado. Thus, Silverton could be left without an FM station. In summary, Silverton Christian Broadcasting states that it has a sincere desire to provide Silverton with an FM service, and it reiterates that it will promptly build a station, if authorized.

4. After careful consideration of the proposal, comments and reply comments presented in this proceeding, we have determined that Silverton will benefit from the requested assignment, since it would provide a second FM broadcast service to that community. The issues of financial viability is generally considered by the Commission when raised at the application stage.

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 §§ 0.61, and 0.204(b) and 0.283 of the Commission's Rules, It is ordered, That effective September 12, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the community listed below:

City	Channel No.
Silverton, Colorado	257A, 280A.

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

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-19899 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-190; RM-4262]

TV Broadcast Stations in Elk City, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action denies a Petition for Rule Making filed by Griffin Television, Inc. proposing to assign and reserve Channel 31 at Elk City, Oklahoma, and to delete the noncommercial educational reservation from Channel *15 there.

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

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73:

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Elk City, Oklahoma). MM Docket No. 83-190, RM-4262.

Adopted: June 16, 1983.

Released: July 13, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* (48 FR 11725, published March 21, 1983) proposing to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, by assigning Channel 31 to Elk City, Oklahoma, as its third television assignment. The *Notice* was in response to a petition for rule making filed by Griffin Television, Inc. ("petitioner"). Petitioner had proposed to delete the educational reservation on (unused) Channel *15 at Elk City, making that channel available for application by petitioner for commercial use. Petitioner suggested that we reserve Channel 31 instead. Petitioner submitted comments in response to the *Notice* in which it repeated its original proposal as a counterproposal but did not express an interest in applying for Channel 31 it it becomes available for commercial use.

2. Petitioner argues that its counterproposal would serve the public interest, pointing to support from both state and local educational authorities. Petitioner made offers to the local and state educational systems to provide tower space, possibly the only way to provide educational television service to the community. Petitioner asserts that it is quite unlikely that a full-fledged educational station would ever be constructed on Channel *15, given the predicted service contours of the Oklahoma Educational Television Authority's station at Cheyenne, Oklahoma, and given the lack of local educational institutions. Petitioner also notes that Channel *15 has been vacant since at least 1974 and likely earlier than that and that switching the educational reservation from Channel *15 to Channel 31 would result in "activation of a channel which has lain fallow for quite sometime." Petitioner argues that, in light of these factors, its counterproposal differs from other recent dereservation proposals.

3. Petitioner asserts that the *Notice*, while setting forth recent cases evidencing a policy against dereservation, failed to address a case it had cited in its petition for rule making, *San Francisco-San Mateo, California*, 68 F.C.C. 2d 860 (1978), *recon. denied*, 45 R.R. 2d 333 (1979). According to petitioner, the public interest considerations in that case—donation of equipment to the educational licensee and an improved opportunity for commercial service—are present here.

4. As set forth in the *Notice*, since 1964 the Commission has consistently held that there is no significant difference between higher and lower UHF channels, and where there are alternate channels which can be assigned for commercial use, a reservation will not be set aside for such use. See, *e.g., Houston, Texas*, 50 R.R. 2d 1420 (1982). The *Notice*, in the instant proceeding, further stated that this case presented no unusual circumstances justifying the dereservation of Channel *15.

5. In *San Francisco-San Mateo*, the Commission did refer to the public benefit cited by petitioner which would result from the proposed exchange of channels. However, that case involved an exchange of channels between two different communities, with Channel *14 being reassigned from San Mateo to San Francisco and Channel 60 being reassigned from San Francisco to San Mateo. The existing noncommercial licensee of Channel *14 at San Mateo was able to significantly improve its service by switching to a higher UHF channel. Thus, it was necessary to dereserve Channel *14. Here, in

contrast, Channel 31 can be assigned to Elk City for commercial operation without deleting the reservation on Channel *15. Thus, petitioner's reliance on *San Francisco-San Mateo* is inapposite and unpersuasive.

6. Since Channel 31 can be assigned to Elk City for commercial operation without deleting the noncommercial educational reservation on Channel *15 at that community, the reservation will not be deleted. As noted, petitioner has not expressed an interest in operating a station on Channel 31. Since there have been no other expressions of interest in Channel 31 in response to the *Notice*, the petition for rule making will be dismissed and this proceeding terminated.

7. Accordingly, it is hereby ordered, That the petition is dismissed.

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

9. For further information, contact: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

(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, Mass Media Bureau.

[FR Doc. 83-19894 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Selecting Open Season Dates; Alaska, Puerto Rico, and the Virgin Islands for the 1983–84 Season

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e. the outside limits for dates and times when shooting may begin and end, and the number of birds that may be taken and possessed) from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands may select season dates for hunting certain migratory birds during the 1983–84 season. Selected season dates will then be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for publication in the **Federal Register** as amendments to §§ 20.101 and 20.102 of 50 CFR 20.

DATES: Effective on July 22, 1983. Season selections due from Alaska, Puerto Rico and the Virgin Islands by July 29, 1983.

ADDRESS: Season selections from Alaska, Puerto Rico, and the Virgin Islands to Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Public documents may be inspected in the Service's Office of Migratory Bird Management, Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, Tel. AC 202, 254–3207.

SUPPLEMENTARY INFORMATION: On April 5, 1983, the Service published for public comment in the **Federal Register** (48 FR 14700) a proposal to amend 50 CFR 20, with a comment period ending June 22, 1983. That document dealt with the establishment of seasons, limits, and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K of 50 CFR 20, including frameworks for Alaska, Puerto Rico, and the Virgin Islands. A supplemental proposed rulemaking appeared in the **Federal Register** on June 17, 1983 (48 FR 27799) and another on July 7, 1983 (48 FR 31266). The July 7 document contained no information relevant to Alaska, Puerto Rico, and the Virgin Islands. This final rulemaking is the fourth in a series of proposed and final rulemaking documents for migratory bird hunting regulations and deals specifically with final framworks for the 1983–84 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands may select season dates for hunting certain migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Public Hearing

A public hearing was held in Washington, D.C., on June 22, 1983, as announced in the **Federal Register** dated April 5, 1983 (48 FR 14700). The public was invited to participate in the hearing and/or submit written statements. None of the comments received at the public hearing related to these three areas.

Review of Comments on Proposed Rulemaking

Interested persons were given until June 22, 1983, to comment on the April 5 proposed rulemaking. They were also invited to participate in the June 22 public hearing. Only 2 comments were received on the proposed regulations frameworks for Alaska, Puerto Rico, and the Virgin Islands.

Upon request from the Alaska Department of Fish and Game, the Pacific Flyway Council recommended that the daily bag and possession limits for dark geese be the same as in 1982–83. Based upon an earlier recommendation from the Pacific Flyway Council, the Service proposed in the **Federal Register** dated June 17, 1983 (48 FR 27799) that the limits for dark geese in a portion of Alaska be restricted from 4 birds daily and 8 in possession to 1 bird and 2 in possession.

Response. The Service concurs with the more recent recommendation from the Pacific Flyway Council and the limits provided in the following frameworks are the same as those for the 1982–83 hunting season. Alaska is expected to restrict bag limits on dark geese over a broader area by State action. These measures will have the same or greater effect in reducing harvest than those previously proposed.

The Puerto Rico Department of Natural Resources (DNR) requested the option to split the waterfowl hunting season in Puerto Rico into two segments within a wider framework which would permit one segment of the season in November and the other in February. The present framework is December 1 through January 31. The DNR indicated that ducks are present in Puerto Rico in greater numbers in November and February than at other times of the year, and they would like to have their hunting season during these seasons. The principal species harvested in Puerto Rico is blue-winged teal.

Response. The Service concurs with the recommendation and the requested provisions are included in the following frameworks. The size of the harvest in Puerto Rico is inconsequential and is not expected to change significantly as a result of this framework modification.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." and "* * * by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered and threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

The Service initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 28, 1983, Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, gave a biological opinion that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. Examples of such consideration include closures of designated areas in Puerto Rico for the Puerto Rican plain pigeon (*Columba inornata wetmorei*) and the Puerto Rican parrot (*Amazona vittata*) and in Alaska for the Aleutian Canada goose (*Branta canadensis leucopareia*).

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 5, 1983 (at 48 FR 14706) the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Memorandum of Law

In the **Federal Register** dated April 5, 1983 (at 48 FR 14706), the Service stated that it planned to publish its Memorandum of Law for the 1983–1984 migratory bird hunting regulations with its first final rulemaking.

Memorandum of Law: Section 4 of Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided for under Section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711). Such regulations have been promulgated annually since 1918. They appear in 50 CFR Part 20, Subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the U.S. Fish and Wildlife Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1983–84, the Service has published three proposed rules for public comment and conducted one public hearing to facilitate public input into the rulemaking process. Five additional proposed and final rulemakings, and another public hearing, are included in the remaining schedule for establishing the annual hunting regulations for 1983–84. Dozens of public comments summarized and responded to in **Federal Register** listed in the preamble of this document describe the Service's consideration of the impacts of its proposed rules on the public. Many of these comments originated from affected State conservation agencies, while others were submitted by the affected public. In general, the comments strongly supported the Service's initial or supplementary regulatory proposals. Comments which do not support proposed Service action have been adequately addressed. Additional public comments are invited and will be addressed in subsequent **Federal Register** documents. The complete administrative record, including copies of public comments, is available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that it has fulfilled requirements of Section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1983–84 migratory bird hunting regulations which are adequately supported by the Service's records.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemaking was published April 5, 1983, the Service established what it believed was the longest period possible for public comment. In doing this, the Service recognized that at the period's close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the governments of Alaska, Puerto Rico, and the Virgin Islands would have insufficient time to select their season dates, shooting hours, and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and special closures, from which officials of the Alaska Department of Fish and Game, Puerto Rico Department of Natural Resources, and the Virgin Islands Department of Conservation and

Cultural Affairs may select open season dates. Upon receipt of season selections from Alaska, Puerto Rico, and Virgin Islands officials, the Service will publish in the Federal Register final rulemaking amending 50 CFR 20.101 and 20.102 to reflect seasons, limits, and shooting hours for these areas for the 1983–84 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, take effect immediately upon publication.

Authorship

The primary author of this rulemaking is Kenneth E. Gamble, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1983–84

Outside Dates: Between September 1, 1983, and January 26, 1984, Alaska may select seasons on waterfowl, snipe, and cranes, subject to the following limitations:

Shooting hours: One-half hour before sunrise to sunset daily.

Hunting Seasons

Ducks, geese, and brant—107 consecutive days in the Pribilof and Aleutian Islands, except Unimak Island; 107 days in the Kodiak (State game management unit 8) area and the season may be split without penalty; 107 consecutive days in the remainder of Alaska, including Unimak Island. Exception: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

Snipe and sandhill cranes—An open season concurrent with the duck season.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 6 and a possession limit of 12 Emperor geese.

Brant—A daily bag limit of 4 and a possession limit of 8.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 2 and a possession limit of 4.

Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1983–84

Shooting hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1983, and January 15, 1984, as follows:

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas

Municipality of Culebra and Desecheo Island—closed under Commonwealth regulations.

Mona Island—closed in order to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

El Verde Closure Area—consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas consisting of all of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Puerto Rican plain pigeon (*Columba inornata wetmorei*), locally known as "Paloma Sabanera," which is known to be present in the above locale in small numbers and which is presently listed as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Gallinules, and Snipe

Outside Dates: Between November 5, 1983, and February 28, 1984, Puerto Rico may select hunting seasons as follows:

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, coots, common gallinules, and common snipe. The season may be split into two segments.

Daily Bag and Possession Limits

Ducks—Not to exceed 4 daily or 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the Bahama pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico.

Coots—Not to exceed 6 daily and 12 in possession.

Common gallinules—Not to exceed 6 daily and 12 in possession, except that the season is closed on purple gallinules (*Porphyrula martinica*).

Common snipe—Not to exceed 6 daily and 12 in possession.

Closed Areas: No open season for ducks, coots, gallinules, and snipe is prescribed in the Municipality of Culebra and on Desecheo Island.

Final Framework for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1983–84

Shooting Hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: The Virgin Islands may select hunting seasons between

September 1, 1983, and January 15, 1984, as follows.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1983, and January 31, 1984, the Virgin Islands may select a duck hunting season as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 4 daily and 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the Bahama pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*).

Dated: July 8, 1983.

G. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19882 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 48, No. 142
Friday, July 22, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1093

[Docket No. A0-386-A1]

Milk in the Alabama-West Florida Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by a cooperative association to amend the Alabama-West Florida order. The first proposal would continue the present Class I price provisions of the Alabama-West Florida milk order after October 31, 1983. The order went into effect on April 1, 1982, and the Class I price provisions were provided on a temporary basis through October 31, 1983, to afford opportunity for review in light of market experience. The second proposal would provide a new procedure for announcing the Class II price. Proponents say that the requested order changes are needed to insure orderly marketing in the area.

DATE: The hearing will convene on Tuesday, August 9, 1983.

ADDRESS: The hearing will be held at the Holiday Inn—Montgomery East, 1185 Eastern Bypass, Montgomery, Alabama 36117, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: 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 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn—Montgomery East, 1185 Eastern Bypass, Montgomery, Alabama 36117, beginning at 9:30 a.m., local time, on Tuesday, August 9, 1983, with respect to the proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Alabama-West Florida marketing area.

The hearing is called 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).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect ot Proposal No. 1.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory autority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business.

Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1093

Milk marketing orders, Milk, Dairy products

PART 1093—[AMENDED]

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.

Proposal No. 1

In § 1093.50 paragraph (a) is revised to read as follow:

§ 1093.50 Class prices.

* * * * *

(a) The Class I price shall be the basic formula price for the second preceding month plus $2.30.

* * * * *

Proposal No. 2

Add a new § 1093.20 to read as follows:

§ 1093.20 Product prices.

The following product prices shall be used in calculating the basis Class II formula price.

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pouund of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays.

For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat drt milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices detemined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States prodiuction area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Proposal No. 3

Amended § 1093.50 by revising (b) to read as follows:

§ 1093.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1093.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1093.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1093.51a.

* * * * *

Proposal No. 4

Add a new § 1093.51a to read as follows:

§ 1093.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1093.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1093.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

Proposal No. 5

Revise § 1093.53 to read as follows:

§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1093.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 6

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from the hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 17380, Montgomery, Alabama 36117, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D. C. 20250, or may be there inspected

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units

Office of the Secretary of Agriculture
Office of the Administrator, Agriculture Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Alabama-West Florida Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D. C., on July 15, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-19073 Filed 7-21-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 640

[Docket No. 80N-0062]

Additional Standards for Human Blood and Blood Products; Reorganization and Revision of Regulations; Withdrawal of Proposed Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing for reconsideration its proposal of October 31, 1980, that would have reorganized the regulations concerning Whole Blood (Human) in a sequence consistent with the sequence of manufacture for the product, removed outdated requirements, and added new standards for whole blood. The majority of the comments believed that the proposed requirements lacked flexibility, particularly those requirements for donor suitability, and that the proposal, if adopted, would result in an increase in cost and/or would have a detrimental effect on the supply, quality, and accessibility of Whole Blood (Human).

FOR FURTHER INFORMATION CONTACT: Rada Proehl, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 31, 1980 (45 FR 72422), FDA proposed to amend the existing Additional Standards for Human Blood and Blood Products (21 CFR Part 640, Subpart A). FDA proposed to reorganize the regulations for Whole Blood (Human) in a sequence reflecting the sequence of manufacture of the product, to remove outdated requirements, and to add new requirements.

More than 146 comments on the proposal were received. Most concerned the proposed donor suitability requirements. The consensus of the comments was that most of the proposed requirements would not permit adequate flexibility and ultimately would result in an increase in costs or would have a detrimental effect on the supply, quality, and accessibility of Whole Blood (Human), or both. Based on these comments, the agency has reconsidered the proposal and is withdrawing it at this time.

Existing requirements for Whole Blood (Human) in the Code of Federal Regulations or in license applications, or both, remain in effect, and the proposal to revise Subpart A of Part 640, published in the **Federal Register** of October 31, 1980 (45 FR 72422), is hereby withdrawn.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 701, 52 Stat. 1040-1042 as amended, 1050-1051 as amended, 1055-1056 as amended (21 U.S.C. 321, 352, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)), and 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982).

Dated: July 13, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-19643 Filed 7-21-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Virginia; Cancellation of Public Hearing on Proposed Rule To Adopt a State-Federal Cooperative Agreement Between the Commonwealth of Virginia and the Department of the Interior

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

ACTION: Cancellation of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of a public hearing scheduled on the proposed rule because no requests were received to testify at such hearing within the specified time period (July 18, 1983).

This notice cancels the public hearing but does not alter the comment period during which interested persons may submit written comments on the proposed rule.

DATES: The following hearing is cancelled: The public hearing on the proposed rule adopting a State-Federal cooperative agreement between the Commonwealth of Virginia and the Department of the Interior scheduled for July 25, 1983, at the OSM Area Office, Lebanon, Virginia.

ADDRESS: Writen comments should be mailed to:

Administrative Record (R&I-08), Office of Surface Mining, Room 5315-L, 1951 Constitution Avenue NW., Washington, D.C. 20240

or hand carried to:

Office of Surface Mining, Administrative Record (R&I-08), Room 5315, 1100 L Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: H. Leonard Richeson, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240; Telephone: (202) 343-5866.

SUPPLEMENTARY INFORMATION: On June 27, 1982, the Office of Surface Mining published a proposed rule in the **Federal Register** which began the formal process for the adoption of a State-Federal cooperative agreement between the Commonwealth of Viriginia and the Department of the Interior. 48 FR 29545. The proposed rule provided for a public hearing to be held on July 25, 1983 at the Office of Surface Mining, Lebanon Area Office, Flanagan & Carroll Streets, Lebanon, Virginia. It further provided that if no person expressed an interest in testifying by July 18, 1983, that hearing would be cancelled. As of July 18, 1983, no persons had contacted OSM indicating that they wished to testify at the hearing. Therefore, in the interest of cost savings, the Director of OSM is cancelling the hearing.

While there will be no public hearing, interested persons may still submit written comments on the proposed rule. Written comments must be received by 4:00 p.m., on July 28, 1983, to be considered.

Dated: July 19, 1983.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 83-19921 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 10

Proposed International Express Mail Service to Luxembourg, Macao and Sweden

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to agreements with the postal administrations of Luxembourg, Macao and Sweden the Postal Service proposes to begin International Express Mail Service with Luxembourg, Macao and Sweden at postage rates indicated in the tables below. The proposed services are scheduled to begin on October 1, 1983.

DATE: Comments must be received on or before August 22, 1983.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn (202) 245-4414.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260-5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, S.W., Washington, DC 20260-5350.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the **Federal Register**, 39 CFR 10.1. Additions to the manual concerning the proposed new service, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410 (a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed International Express Mail Service to Luxembourg, Macao and Sweden at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Foreign relations.

INTERNATIONAL EXPRESS MAIL

Custom designed service [1] up to and including		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
Luxembourg			
1	$27.00	1	$19.00
2	29.90	2	21.90
3	32.80	3	24.80
4	35.70	4	27.70
5	38.60	5	30.60
6	41.50	6	33.50
7	44.40	7	36.40
8	47.30	8	39.30
9	50.20	9	42.20
10	53.10	10	45.10
11	56.00	11	48.00
12	58.90	12	50.90
13	61.80	13	53.80
14	64.70	14	56.70
15	67.60	15	59.60
16	70.50	16	62.50
17	73.40	17	65.40
18	76.30	18	68.30
19	79.20	19	71.20
20	82.10	20	74.10
21	85.00	21	77.00
22	87.90	22	79.90
23	90.80	23	82.80
24	93.70	24	85.70
25	96.60	25	88.60
26	99.50	26	91.50
27	102.40	27	94.40
28	105.30	28	97.30
29	108.20	29	100.20
30	111.10	30	103.10
31	114.00	31	106.00
32	116.90	32	108.90
33	119.80	33	111.80
34	122.70	34	114.70
35	125.60	35	117.60
36	128.50	36	120.50
37	131.40	37	123.40
38	134.30	38	126.30
39	137.20	39	129.20
40	140.10	40	132.10
41	143.00	41	135.00
42	145.90	42	137.90
43	148.80	43	140.80
44	151.70	44	143.70

INTERNATIONAL EXPRESS MAIL—Continued

Custom designed service [1] up to and including		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
Macao			
1	28.00	1	20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70
23	109.40	23	101.40
24	113.10	24	105.10
25	116.80	25	108.80
26	120.50	26	112.50
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10
Sweden			
1	28.00	1	20.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70
23	109.40	23	101.40
24	113.10	24	105.10
25	116.80	25	108.80
26	120.50	26	112.50
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80

INTERNATIONAL EXPRESS MAIL—Continued

Custom designed service [1] up to and including		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-19873 Filed 7-21-83; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 79-190; RM-3188; FCC 83-324]

Amendment of the Commission's Rules To Provide for the Operation of a Wireless Inflight Entertainment System.

AGENCY: Federal Communications Commission.

ACTION: Order terminating proceeding.

SUMMARY: This proceeding proposed to authorize a wireless inflight entertainment system to replace the current hard-wired system used in commercial passenger planes. The proceeding was instituted in response to a petition from Bell & Howell Corp. The proceeding is terminated in response to a request from petitioner for permission to withdraw its petition.

DATES: This Order becomes effective July 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: Herman Garlan, Federal Communications Commission, Office of Science & Technology, Washington, D.C. 20554, Phone: (202) 653-8247.

List of Subjects in 47 CFR Part 15

Communications equipment.

Order Terminating Proceeding

In the matter of amendment of part 15 of the commission's rules and regulations to provide for the operation of a Wireless Inflight Entertainment System; FCC 83-324, Gen. Docket No. 79-190 RM-3188.

Adopted: July 12, 1983.
Released: July 15, 1983.

By the Commission.

1. The Bell and Howell Corporation filed a petition for rulemaking with the Commission on August 10, 1978, requesting the Commission to amend Part 15 of its Rules to provide for a new low power communications device called a "Wireless Inflight Entertainment System". The proposed system was designed to replace the currently used hard-wired entertainment systems in commercial passenger aircraft.

2. The Commission subsequently adopted a Notice of Proposed Rulemaking (NPRM) in this proceeding on August 1, 1979, released August 9, 1979, 44 FR 48299, proposing to amend Part 15 of the Rules as requested by the petitioner. Six parties filed comments in response to the NPRM. American Airlines Inc. and Bell and Howell were the only parties that fully supported the proposal. Academy of Model Aeronautics, Telephonics, Union Oil Company and Telocator raised concerns about specific aspects of the propsal. From these comments, it is clear that changes to the proposal are required before further action can be taken by the Commission.

3. By letter to the Chief Scientist, dated June 25, 1981, Bell and Howell, through its attorneys, informed the Commission that certain technical problems encountered during the development process has led to the determination that further development of the Wireless Inflight Entertainment System is not practicable. Bell and Howell requested that they be permitted to withdraw its Petition for Rulemaking in this matter.

4. Accordingly, under authority of section 4(i) of the Communications Act of 1934 as amended, it is ordered that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-19904 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 15

[Docket No. 20746; FCC 83-325]

Receiver Certification Program, To Revise the Technical Specifications for Receivers, and To Make Other Changes

AGENCY: Federal Communications Commission.

ACTION: Order Terminating Proceeding.

SUMMARY: This proceeding was instituted in March, 1976 to extend the receiver certification program and to make more stringent the technical specifications for receivers and to make other changes. Part of this proceeding was finalized in a First Report and Order July, 1976 dealing with CB receivers. Action on the rest of the proposals was deferred because of more pressing matters. This proceeding is terminated without further action since the data received is out of date. If additional regulatory action in this area is required, a new proceeding will be instituted.

DATES: The Order becomes effective on July 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: Herman Garlan, Federal Communications Commission, Office of Science & Technology, Washington, D.C. 20554, Phone: (202) 653-8247.

List of Subjects in 47 CFR Part 15

Communications equipment.

Order Terminating Proceeding

In the matter of amendment of part 15 to extend the receiver certification program, to revise the technical specifications for receivers, and to make other changes; FCC 83-325, Docket No. 20746.

Adopted: July 12, 1983.
Released: July 15, 1983.

By the Commission.

1. The Notice of Proposed Rule Making in this proceeding was adopted by the Commission on March 19, 1976 (41 FR 13375). Among other things, it proposed to extend the technical and certification requirements in Subpart C of Part 15 of the Commission's Rules to receivers operating in the frequency bands 26-30 MHz and 890-947 MHz; to establish an alternative means of determining receiver emissions characteristics by measuring antenna terminal voltage; to reduce receiver conducted limits; to require suppression of receiver oscillator harmonics; and, to clarify the spurious emissions

requirements for cable television converters.

2. A portion of this proceeding was finalized by the Commission with the adoption of a First Report and Order on July 27, 1976 (41 FR 32590). In the First Report and Order the Commission promulgated new rules to extend the receiver emissions requirements to include Citizens Band (CB) receivers operating at 27 MHz. Action in other aspects of the proposal was deferred while an answer was sought to the substantial objections that were received. Other matters that were deemed more pressing caused a further delay in action in Docket 20746.

3. In view of the time lapse since this proposal was instituted, the comments and data received are considered to be out of date and of questionable value. Moreover, experience since 1976 has shown that our proposal to tighten limits to further control interference may not be required since the anticipated interference has not materialized. In these circumstances, it is considered desirable to terminate this proceeding without further action. If at a future date further action is found necessary, a new proceeding will be instituted.

4. Accordingly, under authority of section 4(i) of the Communications Act of 1934 as amended, it is ordered that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-19901 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-669; FCC 83-312]

Daytime Power Limitations for AM Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes amending Note 5 to § 73.37 of the Commission's Rules. This rule now limits AM applicants to the same daytime power as they propose at night. The proposed change would avoid the need to file a second application to obtain greater daytime power.

DATES: Comments must be filed on or before August 25, 1983, and reply comments on or before September 9, 1983.

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

FOR FURTHER INFORMATION CONTACT: Jonathan David, Mass Media Bureau (202) 632-7792.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of section 73.37 of the Commission's rules concerning daytime power limitations for AM stations; FCC 83-312, MM Docket No. 83-669.

Adopted: June 29, 1983.

Released: July 19, 1983.

By the Commission: Commissioner Fogarty not participating.

1. The Commission invites comment on a proposed change in the Commission's rules to delete Note 5 to § 73.37. As the rules now stand, Note 5 operates to prevent certain applicants for new unlimited time AM broadcast stations from obtaining greater power during the day than they propose to use at night. Note 5 applies to applications for an unlimited time AM stations which would bring a first or second local nighttime service to a community that already has (or with the proposed operation would have) more than two daytime services. Unless the applicant can establish that greater daytime power is needed to provide service to unserved or underserved areas, it is limited to the same power as is to be used at night.

2. We question whether there is any need to retain such a limitation on daytime power. Not only does it appear to be unduly restrictive, it fails to serve its original purpose. It does not prevent these stations once authorized from obtaining greater daytime power. In essence, the only real effect of Note 5 is to require applicants to follow a two-step procedure to obtain greater daytime power. While rules to prevent this could be proposed, we do not believe that such a step is necessary. In fact, it would be inconsistent with the more relaxed application acceptance policies which have been employed since 1975. Accordingly, we simply propose to delete this portion of Note 5.

3. A brief discussion of the history of this provision can help put the present situation in context. In a proceeding begun in 1969, the Commission explored a number of issues relating to AM assignment standards. Out of this proceeding came more restrictive rules regarding the acceptance of daytime and full-time AM applications.[1] As a general proposition, applications were acceptable for filing only if they proposed bringing significant service to unserved or underserved areas.[2] This meant, that certain exceptions, AM growth was limited to situations in which the proposal included substantial amounts of first or second primary service. While a small number of proposals to provide such service were filed, the flow of applications was greatly reduced. Experience with these standards convinced the Commission that they were too restrictive, and they were relaxed in 1975 to permit acceptance of proposals for first or second local transmission services to communities where no FM channel was available.[3] This relaxation gave recognition to the need for local transmission service and for a choice in such services not just the reception services on which the restrictive rule rested. As revised at that time, Note 5 specified that AM applications for full-time operation did not lose their acceptability because the locality already had two other daytime services. It was sufficient that the locality did not have two nighttime services.

4. While the *Report and Order* in 1975 explained the general basis for these relaxations in the acceptance criteria, it did not explain the basis for revising Note 5 to limit daytime power to that proposed at night unless the additional daytime power was needed to reach unserved or underserved areas. In fact, this daytime power limitation appears to be more in keeping with the restrictive view of the 1973 action than it was with the 1975 relaxation, for it was the 1973 version that sought to limit AM growth solely to areas that lacked two primary services. Our experience with the Note 5 limitation since 1975 suggests that it is not needed and in fact may well be out of keeping with our current approach to AM assignments. Accordingly, we propose to end this limitation. This can be accomplished by deleting the second sentence in Note 5 while retaining the first sentence to make it clear that a full-time application that would bring a second nighttime service to the community is acceptable for filing even though it would not provide a second local daytime service.

Regulatory Flexibility Initial Analysis

I. *Reason for Action.* The rule to be deleted appears to impose an unnecessary restriction and in any event

[1] *Broadcast Station Assignment Standards, Report and Order* in Docket No. 18651, adopted February 21, 1973, 39 F.C.C. 2d 645 (1973).

[2] The rule also took into account whether an FM channel was available for use in the community proposed in the AM application.

[3] *Report and Order* in Docket No. 20285, 54 F.C.C. 2d 1, 1975.

does not serve its originally intended purpose.

II. *Objective.* The *Notice* proposes to consider the continuing need for the daytime power limitation imposed by the rule.

III. *Legal Basis.* Section 307(b) of the Communications Act of 1934, as amended, directs the Commission to provide a fair, efficient and equitable distribution of radio service. Various provisions of Section 303 of the Communications Act empower the Commission to foster more efficient use of radio in the public interest.

IV. *Description, Potential Impact and Number of Small Entities Affected.* The only group affected would be the licensees which no longer would need to file a second application to obtain greater daytime power.

V. *Recording, Record Keeping and Other Compliance Requirements.* None would be added by the proposed action.

VI. *Federal Rules which Overlap, Duplicate or Conflict with the Proposed Rules.* None.

VII. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with Stated Objectives.* No adverse impact on small entities is expected.

5. For the purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleading and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must state by docket number the proceeding to which its relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

6. This *Notice of Proposed Rule Making* is issued pursuant to authority contained in Sections 4(i) and (j) and 303 of the Communications Act of 1934, as amended. Interested parties may file comments on or before August 25, 1983, and reply comments on or before September 9, 1983. All relevant and timely comments filed in response to this *Notice* will be considered by the Commission. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and five copies of all comments, replies, briefs and other documents filed in this proceeding shall be furnished to the Commission. Further, members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying th docket number in the heading. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided the fact of the Commission's reliance on such information is noted in the Report and Order.

7. 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, NW., Washington, D.C.

8. For further information contact Wilson La Follette, Mass Media Bureau, (202) 632-9660, or Jonathan David, Mass Media Bureau, (202) 623-7792.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-19069 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[Gen. Docket No. 83-484]

Repeal or Modification of the Personal Attack and Political Editorial Rules; 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, in response to a motion filed by Media Access Project, grants a two week extention of time for the filing of comments in the Rulemaking Proceeding entitled "Repeal or Modification of Personal Attack and Political Editorial Rules." General Docket No. 83-484.

DATES: Comments are now due by September 5, 1983 and replies by September 30, 1983.

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

FOR FURTHER INFORMATION CONTACT: A. Holly Berland, Office of General Counsel, (202) 632-6990.

Order Granting Extention of Time

In the matter of repeal or modification of the personal attack and political editorial rules; Gen. Docket No. 83-484 (6-21-83; 48 FR 28295).

Adopted: July 13, 1983.
Released: July 18, 1983.

1. Media Access Project ("MAP") has filed a motion requesting that the deadline for filing comments and reply comments in the above-captioned proceeding be extended to November 22, 1983, and January 23, 1984, respectively. Comments and reply comments are currently due on August 22, 1983, and September 16, 1983, respectively. MAP asserts that the existing 60-day comment period is insufficient, given the importance of this proceeding, and because the comment period coincides with many planned summer vacations, with contemporaneous congressional activity regarding broadcasting deregulation, and with the FCC's proceeding concerning the application of Section 315 of the Communications Act to cable.

2. We find that MAP has not made any showing sufficient to support its request for a three month extension of time. Nevertheless, because the comment period in this proceeding overlaps with filing periods in MM Docket No. 83-331, and because MAP's motion is unopposed, we are hereby granting an extension of two weeks. We caution that any future requests for extensions of time must be supported by a reasonable showing of good cause and that frivolous petitions will not be entertained. We wish especially to discourage petitioners from requesting disproportionately long extensions of time in the hope that a shorter more realistic extension might be granted.

3. Therefore, It is hereby ordered that pursuant to applicable procedures set out in §§ 1.4 and 1.415 of the Commission's Rules and Regulations, 47 CFR 1.4 and § 1.415, interested parties may file comments on or before

September 5, 1983 and reply comments on or before September 30, 1983.

Bruce E. Fein,

General Counsel.

[FR Doc. 83-19900 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-219; RM-3099; RM-3273; FCC 83-311]

Deregulation of Radio

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: Action taken herein solicits comments regarding the need for and the appropriate nature of a program log keeping requirement for commercial radio stations. The reason for this action is the remand of this matter to the Commission by the United States Court of Appeals for the District of Columbia for the purpose of conducting these further proceedings.

DATES: Comments are due by August 25, 1983 and replies by September 9, 1983.

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

FOR FURTHER INFORMATION CONTACT: Roger D. Holberg, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: The proposed record keeping requirements set forth in the Further Notice of Proposed Rule Making have been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980. Comments in addition to those filed with the Federal Communications Commission must also be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Communications Commission.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Further Notice of Proposed Rule Making

In the matter of deregulation of radio: BC Docket No. 79-219; RM-3099, RM-3273.

Adopted: June 29, 1983.

Released: July 19, 1983.

By the Commission: Commissioner Fogarty not participating.

1. As a result of the partial remand of the above-captioned matter to the Commission by the United States Court of Appeals for the District of Columbia Circuit,[1] we are today adopting a *Further Notice of Proposed Rule Making* in the radio deregulation proceeding. This *Further Notice* is strictly limited to an exploration of the question of what information regarding nonentertainment programming we should require radio broadcasters to keep and to make available to the public and the Commission in view of the regulatory scheme for commercial radio ushered in by this proceeding.[2]

2. In the *Report and Order* herein, the Commission deleted its guidelines with regard to nonentertainment programming and commercial levels and eleminated both the ascertainment and program log keeping requirements for commercial radio stations. In doing so, however, the Commission recognized an obligation of commercial radio broadcasters to provide coverage concerning issues facing their community. The method by which this obligation was to be met was largely entrusted to the good faith discretion of each individual licensee. All that the Commission required in terms of documentation evidencing compliance with this obligation was an issues/programs list. That list, which was to be placed annually in each station's public inspection file, was to contain information with respect to programming aired in response to from five to ten issues facing the broadcaster's community.[3]

3. The court affirmed the Commission's deregulation action as to nonentertainment programming, commercialization and ascertainment, but questioned the Commission's decision to completely eliminate program log keeping requirements. The court noted that nothing in the Communications Act of 1934, as amended, requires the Commission to mandate program logs[4], and seemed to agree that the changes in our regulatory approach occasioned by the radio deregulation decision had rendered our former logging requirements obsolete and properly subject to elimination. However, the court expressed its concern that the Commission had given insufficient consideration "to the benefits of retaining a modified form of programming logs more appropriate to the informational needs of the new regulatory scheme established in this and concurrent rulemaking proceedings."[5] Accordingly, the matter was remanded to the Commission in order that it could examine and compare the usefulness of a revised program log and issues/programs list in light of the radio deregulation proceeding and other Commission actions.[6]

4. In remanding the matter to the Commission, the court indicated its concern that the issues/programs list scheme may fail to provide a sufficient gauge of a station's overall public service performance [7] and that, absent a broader information base than provided by this approach, both the public and the Commission might be unable to evaluate individual licensee performance or the success of radio deregulation in general.[8] The court also suggested that we consider, for example, a revised log designed to provide information on issue-oriented programming.[9]

5. We are seeking by this *Further Notice* to elicit comments on the appropriate nature of a program record keeping requirement for commercial radio broadcasters that would meet the above-noted concerns of the court and provide the information necessary to satisfy our regulatory obligations with minimum burden on both the Commission and its licensees. We emphasize that this proceeding should not be taken as an occasion to reargue the fundamental questions presented by, and resolved in, the radio deregulation proceeding. Comments should be limited strictly to the issue of program records. Finally, we intend to act quickly in this matter and, to that end, will provide limited comment and reply comment perions, so that this last outstanding question in the radio deregulation proceeding can be resolved as expeditiously as possible.

6. Clearly, various options are possible in fashioning an alternative program logging or other record keeping requirement. Given the thrust of the court's decision and the nature of our

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[1] *Office of Communicotions of the United Church of Christ* v. *F.C.C.*, No. 81-1032, Slip. Op. (D.C. Cir. May 10, 1983) [hereinafter *UCC* v. *FCC*].

[2] See Report and Order (BC Docket No. 79-219), 84 FCC 2d 968 (1981), *recon. denied*, 87 FCC 2d 797 (1981).

[3] Specifically, this list was to contain, in narrative form, a brief description of from five to ten issues to which the licensee gave particular attention with programming, together with a brief description of how the licensee determined each issue to be one facing its community and how each issue was treated. Additionally, the list was to include information pertaining to the date and time of broadcast and the duration of listed programming. The list was not intended to be exhaustive but, rather, exemplary in nature. *See* 84 FCC 2d at 999.

[4] UCC v. *FCC*, Slip Op. *supra* at 48.

[5] Id. at 49.

[6] In this regard, the Commission's "short form" renewal application proceeding was noted by the court. *Renewal of License*, 46 Fed. Reg. 26236 (49 RR 2d 740) (1981), *appeal pending sub. nom. Black Citizens for a Fair Media* v. *FCC*, D.C. Cir. Nos. 81-1710, 81-2277. *See UCC* v *FCC*, Slip Op., *supra* at 54.

[7] *Id.* at 53.

[8] *Id.* at 54-55.

[9] *UCC* v. *FCC*, Slip Op., *supra* at 51.

new regulatory scheme for commercial radio, however, these options would seem generally to revolve around the placement in each station's public inspection file of a more complete record of issue-oriented programming presented by the licensee.[10] Accordingly, the following questions suggest themselves as pertinent for consideration by interested parties proposing an appropriate program record keeping obligation:

(1) Should the Commission require a complete listing by time, date and duration of all nonentertainment programming or only of issue-responsive programming?[11]

(2) Should the Commission require a brief statement regarding the nature of the issue addressed in each program noted on the "log?"

(3) At what intervals should the "log" have to be placed in the public file—weekly, monthly, quarterly, yearly, etc.?

(4) Should any new type of "log" be in lieu of, or in addition to, the issues/programs list?

(5) What would be the estimated costs of keeping a comprehensive listing of issue-responsive programming?

(6) What benefits would be conferred by our requiring commercial radio licensees to keep such a comprehensive listing?

These questions, of course, are suggestive rather than exhaustive. Commenting parties are invited to address other pertinent aspects of the logging issue as well.

7. At this stage of the proceeding, we tentatively believe that one appropriate course would be retention of the issues/programs list along with the creation of a new record of all issue-oriented programming. This latter record could include the date, time and duration of the program, along with the issue or issues addressed therein. The record could be compiled and placed in a station's local public file quarterly, for the three month period just past.[12] The yearly issues/programs list could continue to provide more detailed information on exemplary programs and community issues. *See* footnote 3, *supra*. This general approach would seem to address the court's concern that the issues/programs list alone might be an insufficient gauge of a broadcaster's overall public service performance and an inadequate source of information for both the Commission and the public seeking to evaluate an individual licensee's issue-responsive programming or the general success of our deregulatory efforts in this proceeding. At the same time, this proposal maintains the deregulatory thrust of our original decision and gives appropriate weight to limiting the paperwork burden upon licensees.[13] Within this general framework, we solicit specific comments on the appropriateness of the information to be included and the timing of both the issue-oriented program record and the issues/programs list. Moreover, we emphasize that this proposal is tentative in nature and that we do not intend commenting parties to focus on it to the exclusion of other possibilities. We do request, however, that any proposals submitted address the basic concerns noted above as important in selecting an alternative logging requirement.

8. *Initial Regulatory Flexibility Analysis*

I. *Reason for Action.* This action is being proposed as a result of the remand of this matter to the Commission by the United States Court of Appeals for the District of Columbia Circuit for further proceedings.

II. *Objectives.* The Commission seeks to explore the need for additional record keeping requirements in view of the new regulatory scheme for commercial radio stations. The court found that the Commission's original determination in this regard was inadequately explained and that alternatives were insufficiently considered.

III. *Legal Basis for Action.* The matter was remanded by the Court of Appeals for this action. Additionally, the Commission is authorized to engage in the rulemaking function by Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

IV. *Description, Potential Impact and Number of Small Entities Affected.* The proposed action inquires as to whether commercial radio stations should be required to collect and maintain more extensive information concerning their programming efforts directed at issues facing their communities. This would result in increased program-related recordkeeping requirements for commercial radio stations, although the Commission specifically proposed to carefully consider and limit to the extent possible the additional burden which any new requirements might impose. All commercial radio stations will be affected by any action taken. As of March 31, 1983, there were 8,129 such stations on the air.[14]

V. *Recording, Recordkeeping and Other Compliance Requirements.* This matter was remanded to the Commission precisely upon the issue of imposing additional recordkeeping requirements upon commercial radio station licensees. Accordingly, the Commission will be considering several options in this regard. The tentatively preferred option is set forth in paragraph 7, above. No particular professional skills would be required irrespective of the option eventually adopted.

VI. *Federal Rules which Overlap, Duplicate or Conflict with This Rule.* None.

VII. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives.* There are no apparent significant alternatives which are outside the scope of the instant proposal and yet consistent with the remand instructions of the court.

VIII. *Conclusion.* The Commission is undertaking to determine the appropriate scope of program-related logging requirements for commercial radio broadcasters in view of its recent and substantial deregulation of this service and the instructions of the Court of Appeals for the District of Columbia Circuit in its remand of this matter to the Commission

9. The Secretary shall cause a copy of this *Further Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601, *et seq.*) The Secretary shall also cause a copy of this document and the Preamble thereto to be sent to the Office of Management and Budget for review pursuant to Section 3504(h) of the Papework Reduction Act of 1980.

10. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are

[10] In this regard, we do not exclude the issues/programs list as a viable option. In his concurring opinion, Judge Bork stated that the matter was being remanded to the Commission so that we could reexamine the logging issue and, "provide a more thoughtful and detailed justification of whatever decision [the Commission] may reach." This suggests that our initial action in this area might be sustainable if a more complete rationale were provided. Comments are invited on this possibility.

[11] The court appeared to suggest that only issue-oriented programming need be addressed in any type of "log". *UCC* v. *FCC*, Slip Op., *supra* at 53.

[12] This material would not have to be filed routinely with the Commission. It would, however, be available to the public and the Commission should questions arise as to the success of radio deregulation or as to individual licensee performance.

[13] We note, in this regard, that Congress has mandated a reduction of paperwork burdens imposed by government regulation. *See* Federal Paperwork Reduction Act, Pub. L. 96-511, 94 Stat. 2812, 44 U.S.C. 3501-3520 (1980).

[14] "Broadcast Station Totals for March 31, 1983," Mimeo No. 3742 (April 21, 1983).

advised that *ex parte* contracts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments, pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a writen *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule making proceedings is available from the Commission's Consumer Assistance Office, Washington, D.C. 20554 (202) 632-7000.

11. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

12. Pursuant to procedures set out in Section 1.415 of the Commission's Rules, interested parties may file comments on or before August 25, 1983, and reply comments on or before September 9, 1983. In accordance with the provisions of § 1.419 of the Commission's Rules, formal participants shall file an original and five copies of their comments or reply comments and any supporting materials. Participants wishing each Commissioner to have a personal copy of their submissions should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments and reply comments must specify the docket number of the proceeding to which they relate (BC Docket No. 79-219). All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, Room 239, 1919 M Street, NW., Washington, D.C. 20554.

13. Accordingly, the Commission adopts this *Further Notice of Proposed Rule Making* pursuant to the authority contained in Sections 4(i) and 303 (g) and (r) of the Communications Act of 1934, as amended.

14. For further information concerning this proceeding, contact Roger Holberg, Mass Media Bureau, (202) 632-7792.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

FR Doc. 83-19902 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Dyssodia tephroleuca (Ashy dogweed) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list a plant, *Dyssodia tephroleuca* (Ashy dogweed), as an Endangered species under the authority contained in the Endangered Species Act of 1973, as amended. Historically, this plant was known from two counties in Texas. As of 1979, it was known to occur only on 1 acre in Zapata County, Texas. It is a relict species found in an area with other relict grassland plants. The continued existence of this species is endangered by overgrazing, possible further loss of habitat by roadside blading, brush clearing, and by possible collecting or vandalism. A final determination of *Dyssodia tephroleuca* to be an Endangered species would implement the protection provided by the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 20, 1983. Public hearing requests must be received by September 6, 1983.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours by appointment, at the Service's Regional Office of Endangered Species, 421 Gold, SW., Room 407, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dr. Russell L. Kologiski, Botanist, Region 2 Endangered Species staff (see ADDRESSES above) (505/766-3972) or Mr. John L. Spinks, Jr., Chief, Washington Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Dyssodia tephroleuca was first collected by E. L. Clover in 1932, and described by S. F. Blake in 1934. *Dyssodia tephroleuca* (Ashy dogweed) was historically known from two populations in southwestern Texas. Only one of these populations is known to exist at the present time. Approximately 1,300 individuals occur at this site, which is in Zapata County, Texas. *Dyssodia tephroleuca* is a perennial herb with stiff erect stems up to 30 centimeters in height.

The leaves are linear and covered with soft, wooly, ashy-white hairs. Crushed leaves emit a pungent odor. The flower heads (both ray and disk florets) are yellow to bright yellow and about 2.5 centimeters diameter. In poorer habitat or under physiological stress, individuals are shorter, have fewer and smaller flowers, and a less dense covering of hairs. Flowering is from March to May, depending on rainfall. The plants occur in fine, sandy-loam soils in open areas of a grassland-shrub community. The dominant genera in the area are *Castela, Cordia, Prosopis, Microrhamnus, Leucophyllum, Cercidium,* and *Yucca*.

The continued existence of this plant is primarily threatened by further reduction of its only known extant population which is mainly on private land and also on a State highway right-of-way. Overgrazing and habitat loss due to grazing, chaining, plowing, or other habitat modifications could threaten *Dyssodia tephroleuca*. Taking and vandalism of this plant are also very real threats as this plant occurs

along a major north-south highway.

Past governmental actions affecting this plant began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be Endangered, Threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Dyssodia tephroleuca* was included in the July 1, 1975, Notice of Review and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the April 26, 1978, **Federal Register** publication.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals which had expired (44 FR 70796). *Dyssodia tephroleuca* was included in a revised list of plants under review for Threatened or Endangered classification in the December 15, 1980, **Federal Register** (42 FR 82480–82569).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531, *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 Amendments) set forth the procedures for adding species to the Federal list. The Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. *Dyssodia tephroleuca* is especially impacted by factors A, C, and D. All of these factors and their application to the Ashy dogweed are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range. Dyssodia tephroleuca* was historically known to occur in two counties in southwestern Texas. Today it is known to exist at only one site in Zapata County. It occurs with other relict grassland species and is subject to heavy grazing pressure. At present, the most immediate threats to the range of this species are from clearing to create more grazing and cultivated land.

Currently, approximately 1,300 individuals of this species are known to exist. Approximately 300 plants were noted on the west side of the highway, on the State highway right-of-way, and on adjacent private ranchland. On the east side of the highway is a larger group, estimated at 500–1,000 plants. These are on private ranchland in a brushy area currently used for grazing and deer hunting. Adjacent land to the east has been chained recently and no *Dyssodia tephroleuca* were observed in this area. Protection plans need to be developed so that roadside maintenance is done in a way compatible with the continued existence of the *Dyssodia tephroleuca*.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* It is believed that the disclosure of the one specific locality for *Dyssodia tephroleuca* would further endanger the species' continued existence. Taking and vandalism of this easily accessible roadside plant could result, if attention were focused on it as is done when Critical Habitat is designated.

C. *Disease or predation* (including grazing). In the past, grazing has severly reduced the habitat of this plant. Undisturbed climax grassland now persists in southwestern Texas only as scattered remnants.

D. *The inadequacy of existing regulatory mechanisms.* The State of Texas currently has no law protecting *Dyssodia tephroleuca*. The Endangered Species Act will offer needed protection for this species. Official listing under the Endangered Species Act of 1973 will provide a means by which various conservation and recovery actions can be implemented to ensure the continued existence of this plant throughout its range.

E. *Other natural or manmade factors affecting its continued existence.* The species biology of *Dyssodia tephroleuca* is not well understood, but there is evidence of poor reproductive capability as seedlings and newly established plants appear to be absent. The limited number of individuals in the one existing population is a cause for concern as natural factors could lead to its extinction. Natural successional changes in the grassland-shrub mosaic, microclimatic parameters, and degree of success in reproductive mechanisms and identity of pollinators are but a few of the unknown aspects of the species' biology that need to be understood before the reasons for the decline can be fully understood and hopefully reversed.

Critical Habitat

The Act requires that Critical Habitat be determined at the time a species is listed to the maximum extent prudent and determinable. Critical Habitat is not being proposed for *Dyssodia tephroleuca* due to its very restricted geographical distribution and accessibility. Publication of Critical Habitat maps in the **Federal Register** is required when Critical Habitat is designated. Only one site is known to exist for this species and it is bisected by a major highway. There is the possibility of taking and vandalism of this species on non-Federal lands which would not be prohibited by the Endangered Species Act. It would not benefit the species to bring further attention to the one site where it occurs via Critical Habitat designation.

Available Conservation Measures

The protection afforded *Dyssodia tephroleuca* by this proposal if publsihed as a final rule, is discussed below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. This rule requires Federal agencies to satisfy their statutory obligations with respect to this species. As a proposed species, agencies are required under Section 7(a)(4) to informally confer with the Service on any action that is likely to jeopardize the species. This protection would now accrue to *Dyssodia tephroleuca*. If published as a final rule, this proposal would require Federal agencies to ensure that activities they authorize, fund or carry out, are not likely to jeopardize the continued existence of *Dyssodia tephroleuca*. Provisions for Interagency Cooperation which implement Section 7 of the Act are codified at 50 CFR Part 402. The impact of Section 7 on this species probably would be minimal as there are no known Federal activities or involvement in the area where *Dyssodia* occurs.

The Act and implementing regulations published in the June 24, 1977, Federal Register set forth a series of general prohibitions and exceptions which apply to all Endangered plant species. The

regulations which pertain to Endangered plants are found at § 17.61 of 50 CFR and are summarized below.

With respect to *Dyssodia tephroleuca* all trade prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. Section 10(a) of the Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activies involving Endangered species under certain circumstances. International and interstate commerce in *Dyssodia tephroleuca* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued, since this plant is not common in the wild.

Section 9(a)2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. This new prohibition would apply to *Dyssodia tephroleuca* if it were listed and if populations were found on Federal lands. No such populations are known to exist on Federal lands at present. Permits for exceptions to this prohibition are available under Section 10(a) of the Act, following the general approach of 50 CFR 17.62 and 17.63 until revised regulations to reflect 1982 amendments to the Act are promulgate.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903). It is anticipated that few taking permits for the species will ever be requested.

The Service will now review this species to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wilflife Preservation in the Western hemisphere or other appropriate treaties.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and the Regional Office (see ADDRESSES section), and may be examined, by appointment, during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect 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 Parts 1500–1508).

Public Comments Solicited

The Service intends that any rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

1. biological or other relevant data concerning any threat (or the lack thereof) to *Dyssodia tephroleuca*;

2. the location of any additional populations of *Dyssodia tephroleuca* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided by Section 4 of the Act; and,

3. additional information concerning the range and distribution of this species.

Final promulgation of the regulations on *Dyssodia tephroleuca* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal or to a decision not to publish a final regulation.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Authors

The authors of this proposed rule are Ms. Sandra Limerick and Ms. Rosemary H. Carey, Endangered Species staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103. Status information was provided by Dr. B. L. L. Turner, University of Texas, Austin, Texas. Ms E. LaVerne Smith and Dr. C. Kenneth Dood, Jr. of the Washington Office of Endangered Species served as editors.

References

Blake, S.F. 1935. New Asteraceae. Journal of the Washington Academy of Sciences 25:320–321.

Correll, D.S. and M.C. Johnston. 1970. *Manual of the Vascular Plants of Texas*. Texas Research Foundation, Renner, Texas. xiii + 1881 pp.

Turner, B.L. 1980. Status Report: *Dyssodia tephroleuca* Blake. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 5 pp.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 is as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order, the following to the list of Endangered and Threatened plants:

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family:						
Dyssodia tephroleuca	Ashy dogweed	U.S.A. (TX)	E		NA	NA

Dated: June 10, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19908 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 142
Friday, July 22, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Old Dominion Electric Cooperative; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration (REA).

ACTION: Proposed Loan Guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $300,000,000 to Old Dominion Electric Cooperative, (Old Dominion), Richmond, Virginia. This loan guarantee will provide funds needs to finance a 12.5 percent undivided ownership interest in the 1755 MW North Anna Nuclear Power Station, Units 1 and 2. The North Anna facility is owned by Virginia Electric Power Company and is located in Louisa, Orange and Spotsylvania Counties, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest M. Jordan, Jr., General Manager and Executive Vice President, Old Dominion Electric Cooperative, 5602 Chamberlayne Road, Richmond, Virginia 23227.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. Jordan at the address given above.

In order to be considered, proposals must be submitted on or before (within 30 days from the date of the **Federal Register** publication of this notice) to Mr. Jordan. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Old Dominion and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: July 14, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-19812 Filed 7-12-83; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Brandywine Park/CAT RC&D Measure, Delaware; Intent To Not Prepare an Environmental Impact Statement

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 Brandywine Park Critical Area Treatment RC&D Measure, New Castle County, Delaware.

For further information contact: Mr. Donald M. McArthur, State Conservationist, Soil Conservation Service, 210 Treadway Towers, 9 East Loockerman Street, Dover, Delaware 19901, Telephone (302) 678–0750.

Supplementary Information:

The environmental evaluation of this federal action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Donald M. McArthur, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment in Brandywine Park which is located astride the Brandywine River in Wilmington, Delaware. The planned work includes removal of a few diseased and damaged trees; site preparation through removal of debris, removal or relocation of some stones, and grading, shaping, and filling where necessary to facilitate the planned work; resurfacing parking areas and walkways; installation of water control structures including pipes, drop structures, and revetments for surface water management; placement of rock riprap at selected areas to protect trees and critically eroding areas along the streambank; installation of planned landscaping practices; vegetation of disturbed area; vegetation of certain areas to convey water and protect the soil from erosion.

Construction will be confined to the parkland. Minimum intrusions into the river will occur. Materials compatible with the site will be used insofar as possible to minimize aesthetic disruption.

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 Mr. McArthur.

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)

Donald M. McArthur,

State Conservationist.

July, 1983.

[FR Doc. 83-19680 Filed 7-21-83; 8:45 am]

BILLING CODE 3410-16-M

East Pittman Creek Watershed, Florida; 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 East Pittman Creek Watershed, Holmes County, Florida.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, State Conservationist, Soil Conservation Service, P.O. Box 1208, Gainesville, Florida 32602, telephone (904) 377–0946.

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, James W. Mitchell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include accelerated technical assistance and federal cost sharing for the installation of land treatment measures including treatment of 70 critical eroding areas (gullies).

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 James W. Mitchell.

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. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: July 14, 1983.

J. D. Rector,

Acting State Conservationist.

[FR Doc. 83–19668 Filed 7–21–83; 8:45 am]

BILLING CODE 3410–16–M

Larkin Creek Watershed, Arkansas; Availability of Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Jack C. Davis, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Arkansas, is hereby providing notification that a record of decision to proceed with the installation of the Larkin Creek Watershed project is available. Single copies of this record of decision may be obtained from Jack C. Davis at the address shown below.

FOR FURTHER INFORMATION CONTACT: Jack C. Davis, State Conservationist, Soil Conservation Service, P.O. Box 2323, 5301 Federal Office Building, Little Rock, Arkansas, 72203, telephone 501–378–5445.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention)

Dated: July 13, 1983.

Jack C. Davis,

State Conservationist.

[FR Doc. 83–19662 Filed 7–21–83; 8:45 am]

BILLING CODE 3410–16–M

Lower Forest River Watershed, N.D.; Channel B Repair Work

AGENCY: Soil Conservation Service, USDA.

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 proposed repair work on Channel B of the Lower Forest River Watershed, Walsh County, North Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, P.O. Box 1458, Bismarck, North Dakota 58502, telephone (701) 255–4011, extension 421.

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, Mr. J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project is along Channel B in the Lower Forest River Watershed which is 15.2 miles in length. There are 11 specific sites along this channel with slope stability and erosion problems. The planned work consists of repairing these 11 sites which have a total length of 18,600 feet. The repair work will consist of channel cleanout, flattening side slopes, revegetation and riprapping where needed.

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 Mr. J. Michael Nethery.

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. State and local review procedures for Federal and federally assisted programs and projects are applicable)

Dated: July 11, 1983.

J. Michael Nethery,

State Conservationist.

[FR Doc. 83–19690 Filed 7–21–83; 8:45 am]

BILLING CODE 3410–16–M

Wheatland Irrigation District Canal #3 Siphon RC&D Measure, Wyoming; 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 Wheatland Irrigation District Canal #3

Siphon, RC&D Measure, Platte County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Frank S. Dickson, State Conservationist, Soil Conservation Service, Federal Building, 100 East B Street, Casper, Wyoming 82601, telephone 307–261–5201.

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, Frank S. Dickson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure calls for installing a siphon on canal #3 at Sand Creek. The siphon is located in sec. 23, T. 23 N., R. 69 W., in Platte County, Wyoming. The capacity of the existing siphon is approximately 100 c.f.s. The Wheatland Irrigation District (WID) has a total adjudicated rate of 146 c.f.s. The new siphon will allow the WID to siphon the total rate.

The installation will have several short-term negative effects due to construction activities. Long-term effects are either beneficial or not significant.

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 Frank S. Dickson.

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: July 21, 1983.

Charles D. Craft,

Acting State Conservationist.

[FR Doc. 83–19570 Filed 7–21–83; 8:45 am]

BILLING CODE 3410–16–M

Wolf-Wildcat Creeks Watershed, Nebraska; Availability of a Record of Decision

AGENCY: Soil Conservation Service.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Sherman L. Lewis, responsible Federal Official for projects administered under the provisions of Public Law 83–566, 16 U.S.C. 1001–1008, in the State of Nebraska, is hereby providing notification that a record of decision to proceed with the installation of the Wold-Wildcat Creeks Watershed Project is available. Single copies of this record of decision may be obtained from Sherman L. Lewis at the address shown below.

FOR FURTHER INFORMATION CONTACT: Sherman L. Lewis, State Conservationist, Soil Conservation Service, 100 Centennial Mall North, P.O. Box 82502, Lincoln, Nebraska, telephone 402–471–5302.

Dated: July 6, 1983.

Sherman L. Lewis,

State Conservationist.

[FR Doc. 83–18983 Filed 7–21–83; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00p and will end at 10:00p, on August 25, 1983, at the City Hall Building, 100 East Michigan Boulevard, Mayor's Conference Room, Michigan City, Indiana. The purposes of this meeting are to approve previous Advisory Committee meeting minutes; receive reports on the status of the block grants project and the Indiana prisons project; and future planning.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, Indiana 47401, (812) 337–9632; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 19, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–19089 Filed 7–21–83; 8:45 am]

BILLING CODE 6335–01–M

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 12 Noon and will end at 2:00p, on August 15, 1983, at the Anti-Defamation League Office, 163 Madison, Detroit, Michigan. The purposes of the meeting is to finalize preparations for the conference on tuition tax credits.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Rienstra, 1225 Thomas South East, Grand Rapids, Michigan 49506, (616) 949–4000, or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–19868 Filed 7–21–83; 8:45 am]

BILLING CODE 6335–01–M

New Mexico Advisory Committee Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the New Mexico Advisory Committee to the Commission will convene at 8:30 a and will end at 8:30p, on August 17, 1983, at the Roswell Inn, 1815 N. Main, Rio Grande Room, Roswell, New Mexico. The purpose of the conference is to discuss political participation of minorities and women.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Roberto A. Mondragon, Lieutenant Governor's Office, State Capitol, Room 425, Santa Fe, New Mexico 87503, (505) 827–2513; or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 730–5570.

The conference will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–19887 Filed 7–21–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration
Title: Statement of Controlled Materials Requirements for Class "A" Products-Production or Research and Development
Form Numbers: Agency—DMS–4A; OMB—0625–0014
Type of Request: Extention
Burden: 500 respondents; 250 reporting hours
Needs and Uses: The information collected from producers using controlled materials to produce class "A" products is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended, to manage the consumption and use of controlled materials. Data collected from the producers on deliveries and controlled materials requirements is used for program determinations in support of national defense, atomic energy and space activities. The Department of Commerce uses the information to establish set-asides for these materials.
Affected Public: Business or other for profit
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785

Agency: International Trade Administration
Title: Detailed Breakdown of Controlled Materials Requirements
Form Numbers: Agency—DMS–4S; OMB—0625–0030
Type of Request: Extention
Burden: 200 respondents; 400 reporting hours
Needs and Uses: The Department of Defense, the Department of Energy, and other defense agencies are required to provide to the Federal Emergency Management Agency estimates of requirements of controlled materials—copper, steel, aluminum, and nickel alloys—needed for construction projects in support of authorized defense or energy programs. The information obtained by those agencies from this form enables them to develop these requirements data.
Affected Public: Businesses or other for-profit
Respondent's Obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785

Agency: International Trade Administration
Title: Statement of Controlled Materials Requirements for Class "A" Products—"Construction"
Form Numbers: Agency—DMS–4–C; OMB—0625–0013
Type of Request: Extention
Burden: 200 respondents; 100 reporting hours
Needs and Uses: The information collection from contractors using controlled materials for construction of Class "A" products is required for the enforcement and administration of the Defense Production Act of 1950, as amended. The data collected is used by the Federal Emergency Management Administration to make program determinations in support of national defense, atomic energy and space activities; and by the Department of Commerce to establish set-asides of controlled materials.
Affected Public: Businesses or other for-profit
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785

Agency: International Trade Administration
Title: Shipments of Primary Nickel
Form Numbers: Agency—ITA–920; OMB—0625–0012
Type of Request: Extention
Burden: 21 respondents; 14 reporting hours
Needs and Uses: The information collected from producers and distributors of primary nickel is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended. The data is used to establish set-asides of primary nickel for use by defense contractors. It is also used to support the Federal Emergency Management Agency in determining stockpile goals and establishing acquisition and disposal programs and the expansion of domestic supply.
Affected Public: Businesses or other for-profit
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785

Agency: International Trade Administration
Title: Basic Rules of the Defense Materials System (DMS) and Defense Priorities System (DPS)
Form Numbers: Agency—DMS–1; DPS–1 and DPS–2; OMB—0625–0107
Type of Request: Extention
Burden: 25,000 recordkeepers; 16,667 recordkeeping hours
Needs and Uses: The recordkeeping is required by all producers and suppliers of industrial products, materials and services for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended. Any person who receives a defense rated contract or order is subject to the implementation DMS/DPS regulations and is required to retain records of the transaction for at least three years. Such records are used for audit transactions under these regulations to determine compliance with them.
Affected Public: Businesses or other for-profit
Frequency: Recordkeeping
Respondent's Obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785

Agency: International Trade Administration
Title: Steel Producers Production Directive
Form Numbers: Agency—ITA 943; OMB—0625–0017
Type of Request: Extention
Burden: 100 respondents; 1,200 reporting hours
Needs and Uses: This information is required in support of the priorities and allocations responsibilities under the Defense Production Act of 1950, as amended, which are implemented by Defense Materials System (DMS) Regulation 1 and DMS Order 1, and provides the Federal Government data on defense rated shipments of iron and steel. The information is used to establish set-asides of iron and steel for use by defense contractors.
Affected Public: Businesses or other for-profit
Frequency: Quarterly
Respondent's Obligation: Mandatory
OMB Desk Officer: Ken Allen, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Market Assessment of National Ocean Service (NOS) National Charts and Maps
Form Numbers: Agency—N/A; OMB—0648–0127
Type of Request: Revision
Burden: 2,100 respondents; 525 reporting hours
Needs and Uses: Proposed legislation to make the nautical chart program self-supporting will require that NOS be far more knowledgeable about the market for nautical charts and maps. The information from this telephone survey will be used by NOS to

determine a marketing strategy, including new products, different distribution patterns, packaging, and pricing for charts.
Affected Public: Small businesses and individuals
Frequency: Nonrecurring
Respondent's Obligation: Voluntary
OMB Desk Officer: Ken Allen, 395–3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Ken Allen, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Linda Engelmeier,

Acting Departmental Clearance Officer.

[FR Doc. 83-19875 Filed 7-21-83; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Applications For Duty-Free Entry of Scientific Instruments; National Institutes of Health

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 83–241. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Instrument: Electron Microscope, Model JEM–200CX and Accessories. Manufacturer: JEOL, Japan. Intended use of instrument: The instrument is intended to be used to study biological cells and cell parts in order to define basic cell biological principles as applied to nerve cell functions and disorders. Application received by Commissioner of Customs: June 30, 1983.

Docket No.: 83–242. Applicant: Princeton University, Plasma Physics Laboratory, James Forrestal Campus, P.O. Box CN 17, Rt. 1, Princeton, N.J. 08544. Instrument: Pulsed Motor Generator. Manufactuer: Canadian General Electric Company, Ltd., Canada. Intended use of instrument: The instrument is intended to be used as an integral part of the Tokamak Fusion Test Reactor which is being used in a fusion research program to prove the scienfic feasibility of magnetically confined thermonuclear fusion. Application received by Commissioner of Customs: July 1, 1983.

Docket No.: 83–243. Applicant: Columbia University, Department of Applied Physics, 520 W. 120th St., Rm. 213 S.W. Mudd, New York City, N.Y. 10027. Instrument: CO_2 Laser Amplifier (High Power) Model K–921 and Accessories. Manufacturer: Lumonics Research, Ltd., Canada. Intended use of instrument: The instrument is intended to be used for experiments done at the Plasma Physics Laboratory on an electron beam in a pulsed accelerator. The experiments will involve spectroscopy in (i) the visible region and (ii) the millimeter region. The objectives of these experiments are to develop high intensity electron beam sources suitable for high-gain Free Electron Lasers. Application received by Commissioner of Customs: July 1, 1983.

Docket No.: 83–244. Applicant: The Rowland Institute for Science, Inc., 100 Cambridge Parkway, Cambridge, MA 02142. Instrument: Nuclear Magnetic Resonance Spectrometer, Model GX 400/54/RSX. Manufacturer: JEOL, Japan. Intended use of instrument: The instrument is intended to be used to study a wide variety of materials and phenomena. Specific examples of materials which will be studied include proteins and other biologically important molecules, conductive one-dimensional organic chain molecules which hold potential as organic superconductors, and α-pyrones, organic compounds which may prove to be powerful stabilizers for dye lasers. In addition, investigations into nmr methods themselves will be carried out. The principal focus of these investigations will be the development of two-dimensional nmr techniques for elucidating the structure and dynamical behavior of macromolecules in solution. Application received by Commissioner of Customs: July 1, 1983.

Docket No.: 83–245. Applicant: University of Minnesota, Department of Pharmacology, 3–260 Millard Hall, 435 Delaware St., S.E., Minneapolis, MN 55455. Instrument: MS25 Gas Chromatograph/Mass Spectrometer and Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used in carrying out the following research projects:

(1) The dynamics of cyclic nucleotide and adenine and guanine nucleotide metabolism in intact cells determined by phosphodiesterase catalyzed ^{18}O labeling of nucleotide α-phosphoryls.

(2) Delineation of reaction sequences involved in microbial degradation of aromatic compounds of environmental or clinical importance; investigation of the mechanism of anthranilate monoozygenase (yeast) and other enzymes, using $H_2{}^{18}O$ and $^{18}O_2$.

(3) Mechanism of bacterial enzyme catalyzed degradation of aromatic compounds.

(4) Fungal glycopeptide biosynthesis.

(5) Generation of carcinogens from fecal bile acids.

(6) The metabolism of gibberellins.

(7) Biochemistry of Furan fatty acids.

(8) Degradation of low molecular weight aromatic compounds and lignin.

(9) Role of lipid metabolites in myocardial ischemia and infarct.

(10) Steroid 17-hydroxylase activity in congenital adrenal hyperplasia.

(11) Characterization of derivatives and proof of structure of diphthamide.

(12) Regulation of platelet metabolism and function.

(13) The production of NO and N_2O by the ammonia-oxidizing bacteria.

(14) Isolation and identification of insect behavioral chemicals.

(15) Identification and definition of the pharmacokinetic and dynamic actions of selected antineoplastic agents as they relate to the oncotoxic specificity of these drugs.

(16) Prevention of cancer by naturally-occurring and synthetic compounds.

Application received by Commissioner of Customs: July 1, 1983.

Docket No.: 83–246. Applicant: Indiana University, 1101 E. 17th St., Bloomington, IN 47405. Instrument: Droplet Counter Current Chromatograph, Model DCC–300–63 with 3.4 mm ID Glass Columns AC 115 60Hz. Manufacturer: Tokyo Rikakikai Co., Ltd., Japan. Intended use of instrument: The instrument is intended

to be used to separate compounds which will largely be of hormonal nature, i.e., steroidal and/or polypeptide. Experiments to be conducted with the instrument will be to explore the potential various two phase solvent systems will hold for separation of the components of various mixtures obtained from organic or biochemical reactions. Application received by Commissioner of Customs: July 1, 1983.

Docket No.: 83-247. Applicant: University of California, Lawrence Berkeley Laboratory, One Cyclotron Road, Berkeley, CA 94720. Instrument: Electron Microscope, JEM-200CX and Accessories. Manufacturer: JEOL Ltd. Japan. Intended use of instrument: The instrument is intended to be used as a support microscope at the National Center for Electron Microscopy (NCEM) to produce photographic images of specimens at high resolution and micro-area spectroscopic analysis using X-ray and electron energy loss detectors. By enabling micro-area compositional analysis through energy dispersive X-ray spectroscopy or electron energy loss spectroscopy, the microscope will give information about the chemical components of a specimen while other microscopes at NCEM reveal structural components down to the level of individual atomic arrangements. Application received by Commissioner of Customs: July 14, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-19871 Filed 7-21-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program; Pressure Calibration Services

AGENCY: National Bureau of Standards, Commerce.

ACTION: Request for comments on a preliminary finding of need to accredit laboratories that provide pressure calibration services.

SUMMARY: Under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7a) this notice announces the National Bureau of Standards' preliminary finding of need to accredit laboratories that provide pressure calibration services. The requestor, the Mansfield & Green Division of AMETEK, Largo, Florida, proposes that laboratories be accredited to conduct pressure calibrations in the range 1×10^3 to 10^8 pascals (1.5×10^{-1} to 1.5×10^4 psi) in accordance with the procedure developed and used by the National Bureau of Standards for the calibration of piston gages. This notice sets out the basis for the preliminary finding of need, including how accreditation of laboratories that provide pressure calibration services would benefit the public interest. Comments are invited. A public hearing will be held at the National Bureau of Standards, Metrology Building, Room A340, Gaithersburg, Maryland on October 19, 1983 from 9:00 AM—5:00 PM to allow open discussion of the proposed program.

DATE: Written comments are due on or before November 21, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards TECH B141, Washington, DC 20234; (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Background

The Mansfield & Green Division of AMETEK in a letter dated April 25, 1983, to the National Bureau of Standards (NBS) requested, under the NVLAP procedures (15 CFR Part 7a), that AMETEK and NBS work together to establish an accreditation program for laboratories that provide pressure calibration services in the range of 1×10^3 to 10^8 pascals (1.5×10^{-1} to 1.5×10^4 psi). Section 7a.4(b) of the NVLAP procedures sets out the requirements to be met by those persons who seek to have NBS find that there is a need to accredit testing laboratories which provide specific testing services.

This request provides the basic information required by the NVLAP procedures to establish a preliminary finding of need for a laboratory accreditation program (LAP) for laboratories that provide pressure calibration services.

Request for Comments

Interested persons desiring to comment on the preliminary finding of need are invited to submit their comments in writing on or before November 25, 1983, to the Director, Office of Product Standards, Policy, National Bureau of Standards, TECH B154, Washington, DC 20234.

Any person desiring to express his or her views in an informal public hearing relative to this preliminary finding of need may do so at a public hearing to be held at the National Bureau of Standards, Metorlogy Building, Roon A340, Gaithersburg, Maryland on Ocotber 19, 1983 from 9:00 AM—5:00 PM. Interested persons will have an opportunity orally to present data, views, or arguments. Written submissions will also be considered at that time.

Comments are invited particularly to determine whether there is a need to establish a LAP for laboratories that provide pressure calibration services. If it is determined that there is a need for the proposed LAP, suggestions will be invited concerning proficiency testing schemes such as measurement assurance programs (MAPs) or audit packages which could be implemented or verifying the measurement capability of accredited laboratories. In accordance with the requestor's suggestion, the NBS procedure for the calibration of piston gages is initially proposed for inclusion in the LAP. This procedure is described by P. L. M. Heydemann and B. E. Welch in *Piston Gages*, N: Experimental Thermodynamics, Vol. II, Experimental Thermodynamics of Non-reacting Fluids (Editors: B. Le Neindre and B. Vodar; Butterworths, London); Chap. 4, Part 3, pps. 188-93, 1975. As a result of comments in response to this preliminary finding of need, additional procedures related to pressure calibrations could be included.

Procedure Following Receipt of Comments

Upon receipt of all written and oral comments, a thorough evaluation of the comments and testimony wil be undertaken. Upon completion of that evaluation, a notice will be published in the **Federal Register** announcing a final finding of need to accredit laboratories that provide pressure calibration services, or announcing withdrawal of the preliminary finding of need. That notice will set out the basis for a final finding of need or for the withdrawal of the preliminary finding of need.

Documents in Public Record

The documents mentioned or otherwise referenced in this notice are part of the public record and are available for inspection and copying in the Department of Commerce Central Reference and Records Inspection Facility (CRRIF), Room 6622, Main Commerce Building, Washington, DC 20230.

All written and oral comments and testimony in response to this notice will be made part of the public record and will be available for inspection and copying at CRRIF.

Dated: July 18, 1983.

John W. Lyons,

Acting Director, National Bureau of Standards.

Preliminary Finding of Need

The request of the Mansfield & Green Division of AMETEK that NBS find that there is a need to accredit laboratories that provide pressure calibration services has been carefully considered. The analysis of that request is contained in the report entitled "NVLAP Summary and Analysis Report of Request for an Accreditation Program for Laboratories that Provide Pressure Calibration Services". Each heading which follows is keyed to the specific actions of the NVLAP procedures relative to making a preliminary finding of need.

Identification of the product (or Service) (Section 7a.4(b)(1))

The requestor identified the service as pressure calibration service.

Applicable Standards and Test Methods (or procedures) (Section 7a.4(b) (2) and (3))

The requestor proposed that laboratories be accredited to conduct pressure calibrations in the range of 1×10^3 to 1×10^8 pascals (1.5×10^{-1} to 1.5×10^4 psi) based in part on the procedure developed and used by the National Bureau of Standards for the calibration of piston gages using the cross-float method. This procedure is described by P. L. M. Heydemann and B. E. Welch in *Piston Gages*, N: Experimental Thermodynamics, Vol. II, Experimental Thermodynamics of Non-reacting Fluids (Editors: B. Le Neindre and B. Vodar; Butterworths, London); Chap. 4, Part 3, pps. 188–93, 1975.

Section 7a.4(i) of the NVLAP procedures allows test methods (i.e., procedures) to be added to an evolving or established LAP if the methods or procedures fall within the scope of the LAP. At some future date, or even as a result of comments in response to this preliminary finding of need, additional procedures directly related to pressure calibrations could be included.

Basis of Need (Section 7a.4(b)(4))

The requestor included in his request information pertinent to the five items set out in section 7a.5 of the NVLAP procedures. The five items are: (1) benefit to the public; (2) national need to accredit laboratories that provided pressure calibrations services; (3) existence of important test methods (i.e., calibration procedures); (4) existence of a valid testing (i.e., calibration) methodology; and (5) the fesibility and practicability of accrediting testing or calibration laboratories. This information is incorporated in the discussion under the section of this notice entitled "*Basis for Preliminary Finding of Need for Accrediting Laboratories That Provide Pressure Calibration Services (Section 7a.5)*".

Basis for Preliminary Finding of Need for Accrediting Laboratories That Provide Pressure Calibration Services (Section 7a.5)

The basis for this preliminary finding of need, keyed to the information items listed in section 7a.5 of the NVLAP procedures, is as follows:

(1) *Whether an amendment to these procedures to modify the existing general or specific criteria referenced in Section 7a.19 to establish additional general or specific criteria, or to establish other conditions for accrediting testing (or calibration) laboratories would benefit the public interest (section 7a.5(a)).* The requestor indicated that the criteria and other requirements for accrediting laboratories would benefit the public interest through more accurate pressure measurements resulting from the availability of competent laboratory calibration services.

(2) *Whether there is a national need to accredit laboratories that provide pressure calibration services beyond that served by any existing laboratory accreditation programs in the public and private sector (section 7a.5(b)).* The requestor responded with the following statement.

"Manufacturers of pressure measuring devices as well as manufacturers whose product quality depends on accurate pressure measurements express concern about the lack of accurate pressure calibrations. Many calibration procedures are established by product manufacturers and independent laboratories, but very few comparisons have been made to show what product variability results from the use of these procedures.

When the quality of specific products depends on accurate pressure measurements, quite often the user of the products is not in a position to build and maintain testing facilities for conducting product testing. The existence of accredited pressure calibration laboratories provides a means by which commercial and independent laboratories can make pressure measurements to the accuracies required in specific product testing. As a result, the product user has greater confidence in products whose quality depends on accurate pressure measurements."

The requestor suggests that using a LAP administered by the National Bureau of Standards would provide the following benefits to standards laboratories, manufacturers, and product users:

(1) Standards laboratories would be accredited to perform pressure calibrations to within specific tolerances which would be determined and verified by proficiency testing or measurement assurance programs (MAPs);

(2) Commercial and independent laboratories would be accredited to calibrate pressure measuring devices to within specific tolerances required by various product industries; and

(3) Manufacturers that depend on accurate pressure measurements to assure product quality would be able to reduce manufacturing costs and provide products with greater reliability.

(3) *Whether for pressure calibrations, there is in existence a standard (procedure) important to commerce, consumer well-being, or public health and safety (section 7a.5(c)).* The requestor proposed that laboratories be accredited for the calibration of piston gages using the cross-float method as described by heydemann and Welch in *Piston Gages*, N: Experimental Thermodynamics, Vol. II, Experimental Thermodynamics of Non-reacting Fluids (Editors: B. Le Neindre and B. Vodar; Butterworths, London); Chap. 4, Part 3, pps. 188–93, 1975. This procedure has been adopted by private and government Standards laboratories and accepted by instrument manufacturers whose pressure measuring devices must be calibrated to a high degree of accuracy. The quality and performance of many products in such industries as transportation, petroleum, food processing, and construction are dependent on accurate and reliable pressure measurements.

(4) *Whether there is in existence a valid testing (i.e., calibration) methodology (section 7a.5(d)).* The requestor stated that the pressure calibration procedures used by the National Bureau of Standards have been evaluated and accepted by experts in pressure measurements and thus, the measurement methodology is valid.

(5) *Whether it is feasible and practical to accredit laboratories that provide pressure calibration services (section 7a.5(e)).* The requestor stated that a program to accredit laboratories for pressure calibration is no less feasible or practical then the LAPs now established in the program.

Preliminary Finding of Need

The request to find that there is a need to accredit laboratories that provide pressure calibration services has been carefully examined. Based on that examination, which is described above, it is preliminarily found that a need exists to accredit such laboratories. It is proposed that if a final finding of need is determined, this LAP initially would include the pressure calibration procedures used by the National Bureau of Standards. Other procedures could be added in the future, as requested, if they represent viable techniques which are within the scope of the LAP.

[FR Doc. 83-19042 Filed 7-21-83; 8:45 am]
BILLING CODE 3510-13-M

National Voluntary Laboratory Accreditation Program; Quarterly Report

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP quarterly report (April 1–June 30, 1983).

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions for the second quarter of 1983. The status of all NVLAP laboratory accreditation programs (LAPs) is summarized.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, D.C. 20234, (301) 921-3431.

SUPPLEMENTARY INFORMATION: This report has been prepared in accordance with sections 7a.17(a), 7b.17(a), and 7c.17(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR Parts 7a, 7b, and 7c).

New Accreditations Granted

The following laboratories were newly accredited during the second quarter of 1983.

Eastcoast Testing & Engineering, Inc., Ft. Lauderdale, FL

Gold Bond Building Products, a National Gypsum Division, Research Center, Buffalo, NY

Wiss, Janney, Elstner and Associates, Inc., Northbrook, IL

Renewed Accreditations

The following laboratories were reaccredited during the second quarter of 1983 for one or more test methods available under NVLAP.

Salem Carpet Laboratory, Chatsworth, GA

United States Gypsum Company Research Center, Libertyville, IL

Each accredited or reaccredited laboratory received a certificate of accreditation and a corresponding list of test methods for which each is accredited. Anyone wishing to know the test methods for which each laboratory is accredited should request the listing from the laboratory directly or from Mr. Locke at the address given above. Note that laboratories may change the test methods for which they are accredited from year to year, so the user should secure the current list of accredited test methods.

Voluntary Terminations

The following laboratories voluntarily terminated their accreditation during the second quarter of 1983.

The Dolese Company, Engineering Laboratory, Oklahoma City, OK

Lewis Engineering, Inc., Plainfield, IN

Status of Existing LAPs

Insulation LAP—The LAP for thermal insulation materials has 63 test methods for which accreditation may be granted. 34 laboratories are currently accredited to perform one or more of these test methods.

Concrete LAP—The LAP for freshly mixed field concrete has two groups of test methods and one optional test method for which accreditation can be granted. 47 laboratories are currently accredited under the Concrete LAP.

Carpet LAP—The LAP for carpet has 12 test methods for which accreditation may be granted. 23 laboratories are currently accredited for one or more of these test methods.

Stove LAP—The LAP for solid fuel room heaters has 21 test methods in three categories for which accreditation may be granted. Six laboratories are currently accredited for one or more of these test methods.

Acoustics LAP—The LAP for acoustical testing services has 49 test methods for which accreditation may be granted. Six laboratories are currently accredited for one or more of these test methods.

LAPs under Development

Dosimetry LAP—The contract for procuring the services of a testing laboratory to serve as the Proficiency Testing Laboratory is expected to be awarded during July 1983. The Federal Register announcement establishing the LAP is expected to be published during the third quarter of 1983.

Electromagnetic Calibration Services LAP—The Federal Register notice announcing the establishment of this LAP and its fee schedule was published on June 30, 1983 (48 FR 30173–30177). Anyone interested in seeking accreditation under this LAP is urged to write to John Locke at the address shown above and request an application package.

Proposed Laboratory Accreditation Programs

Government Procured Commercial Items—A request was received from the International Coalition for Procurement Standards (ICPS), Tallahassee, FL to establish a LAP for government procured commercial items (paper, paint and mattresses). A notice announcing a Preliminary Finding of Need was published in the Federal Register on May 20, 1983 (48 FR 22771–22775).

Microforms—A request to establish a LAP to accredit laboratories that test microforms (microfilm, microfiche, aperature cards) was received from the National Micrographics Association (NMA). A notice announcing a Preliminary Finding of Need to Accredit Laboratories that Test Microforms was published in the Federal Register on May 20, 1983 (48 FR 22775–22777).

Dated: July 18, 1983.

John W. Lyons,

Acting Director, National Bureau of Standards.

[FR Doc. 83-19043 Filed 7-21-83; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammal Permit Applications; Issuance of Permit to Point Defiance Zoo and Aquarium

On June 2, 1983, Notice was published in the Federal Register (48 FR 24757) that an application has been filed with the National Marine Fisheries Service by Point Defiance Zoo and Aquarium, 5402 North Shirley, Tacoma, Washington 98407, for a permit to import three (3) Beluga whales (*Delphinapterus leucas*) for public display.

Notice is hereby given that on July 13, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the import of three Beluga whales to Point Defiance Zoo and Aquarium, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: July 13, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-19919 Filed 7-21-83; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 1 to Permit No. 238]

Hubbs-Sea World Research Institute; Marine Mammal Permit Modification

Notice is hereby given that pursuant to the provision of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 238 issued to Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109, on June 26, 1978, is modified to extend the period of authorized taking for one and a half years.

Accordingly, Section B-6 is deleted and replaced by:

"6. This permit is valid with respect to the taking authorized herein until December 31, 1984."

This modification becomes effective upon publication in the **Federal Register**.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702.

Dated: July 15, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-19918 Filed 7-21-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing a New Level of Restraint for Wool Sweaters From the Maldives

July 19, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA) under authority contained in Section 204 of the Agricultural Act of 1956, as amended, and E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 22, 1983. For further information contact Ronald Sorini, International Trade Specialist (202/377-4212).

Background

CITA directives of December 21, 1982 (47 FR 57559) and February 25, 1983 (48 FR 8113) established levels of restraint of 15,210 dozen and 12,756 dozen, respectively, for Categories 446 and 445 from the Maldives during twelve-month periods which began on September 29, 1982 and December 26, 1982. The level for Category 446 has now filled and no further entries are being permitted.

In the interest of efficient administration of the textile program, the Government of the United States has decided to merge Categories 445 and 446 at a level of 34,000 dozen for the single restraint period which began on September 29, 1982 and extends through September 28, 1983. The level of restraint has not been adjusted to account for any merchandise in these categories exported during that period. Available data indicate that there were no imports in Category 445, exported during the period which began on September 29, 1982 and extended through December 25, 1982. As further data become available, charges will be made to account for any imports in Category 445 exported during the period which began on December 26, 1982 and extend through the effective date of this action, as well as thereafter. Imports in the amount of 15,210 dozen will also be charged to the new level to account for imports in Category 446.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives of December 21, 1982 and February 22, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of wool textile products in Categories 445 and 446, produced or manufactured in the Republic of the Maldives.

Effective on July 22, 1983, you are directed to establish a level of restraint of 34,000 dozen [1] for Category 445/446, produced or manufactured in the Maldives and exported during the twelve-month period which began on September 29, 1982 and Extends through September 28, 1983.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-19943 Filed 7-21-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1983 commodities and services provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before August 24, 1983.

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: 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 actions.

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[1] The level of restraint has not been adjusted to reflect any imports exported on and after September 29, 1982. Effective on July 22, 1983, 15,210 dozen should be charged to the level.

Additions

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 1983, November 18, 1982 (47 FR 52101):

Class 1025

Lanyard Assembly
1025-00-600-6780

Class 1095

Lanyard Assembly
1095-01-M15-6190

Class 2540

Mirror and Bracket Assembly
2540-00-575-8392

Class 5440

Ladders, Extension (Wood)
5440-00-223-6025
5440-00-242-1000
5440-00-223-6026
5440-00-242-0998
5440-00-223-6027
Ladders, Straight (Wood)
5440-00-242-7151
5440-00-816-2585
5440-00-814-5084
5440-00-242-0995
5440-00-816-2575
5440-00-223-6029
5440-00-223-6030

Class 6530

Speciment Kit, Urine
6530-00-409-8667

Class 7530

Index Sheet Set, Looseleaf Binder
730-00-160-8474
730-00-160-8475
730-00-160-8477 (requirements for GSA Regions 4, 5, and 7 only)
730-00-285-5880
730-00-959-4441

Class 8115

Box, Shipping, Vertical Star Packs
8115-00-192-1603
8115-00-192-1604
8115-00-192-1605

Class 8340

Shelter Half, Tent, Complete
8340-01-026-6096

SIC 0782

Grounds Maintenance
Veterans Administration Medical Center
3801 Miranda Avenue
Palo Alto, California

SIC 5947

Operation of Visitors Center Gift Shop
Department of the Treasury
Bureau of Engraving and Printing
Main Building
Washington, D.C.

SIC 7349

Janitorial Service
Federal Building
401 West Trade Street
Charlotte, North Carolina
Janitorial Service
Social Security Administration Building
215 West Third Avenue
Gastonia, North Carolina

SIC 7399

Redemption of Merchanidise Coupons
Kelly Air Force Base, Texas

Deletions

It is proposed to delete the following commodities from Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 8455

Scarf, Branch of Service
8455-01-078-0750
8455-01-078-0751
8455-01-078-0752
8455-01-078-0746
8455-01-078-0753
8455-01-078-0748
8455-01-078-0754
8455-01-078-0755
8455-01-078-0756
8455-01-078-0744
8455-01-078-0757
8455-01-078-0758
8455-01-078-0759
8455-01-078-0760
8455-01-078-0761
8455-01-078-0762
8455-01-078-0749

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 19872 Filed 7-21-83; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1983; Correction of Additions

In FR Doc. 83-19318, published July 18, 1983 (48 FR 32620 and 32621) is amended as follows:

Class 7520

Trimmer, Paper
7520-00-224-7620
(GSA Regions 1, 3, W, 4, 5, and 6 only)

The requirements for GSA Regions 2 and 7, which are currently on the Procurement List, were inadvertently included in the above notice.

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 83-19937 Filed 7-21-83; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense 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) Titles of Information Collection and Form Number, if applicable; (3) Abstract Statement of the need for the uses of information collection; (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 to be forwarded; (8) The point-of-contact from whom a copy of the information proposal may be obtained.

Extension

Progran Information Institutional Providers—CHAMPUS (OCHAMPUS Form 200 B, C, E, F)

This collection of information is necessary in the determination of eligibility, status for payment purposes and for determining whether a facility can be an approved source of care under the Basic Program for Residential Treatment Centers. Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions and Small Businesses or Organizations: 1,890 responses; 1,890 burden hours.

Forward comments to Ed Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John V. Wenderoth, Agency Clearance Officer, WHS, DIOR, ICD, Room 1C535, Pentagon, Washington, DC 20301, (202) 694-0187.

A copy of the information collection proposal may be obtained from Office Services Branch, ATTN: Jane Bomgardner, Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS),

Aurora, Colorado 80045, Telephone (303) 361-3509.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 19, 1983.

[FR Doc. 83-19853 Filed 7-21-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense 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) Titles of Information Collection and Form Number, if applicable; (3) Abstract Statement of the need for the uses of information collection; (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 to be forwarded; (8) The point-of-contact from whom a copy of the information proposal may be obtained.

Extension

Diagnostic Evaluation, Program for the Handicapped (CHAMPUS Form 141)

Pub. L. 80-614 (Military Medical Benefits Amendment of 1966) requires annual review on all cases in which a beneficiary is receiving benefits under the Program for the Handicapped.The form is used to obtain information as to whether treatment or services provided have been helpful, economical and effective. Businesses or Other For-Profit, Non-Profit Institutions and Small Businesses or Organizations: 840 responses; 840 burden hours.

Forward comments to Ed Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John V. Wenderoth, Agency Clearance Officer, WHS, DIOR, ICD, Room 1C535, Pentagon, Washington, DC 20301, (202) 694-0187.

A copy of the information collection proposal may be obtained from Office Services Branch, ATTN: Jane Bomgardner, Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Aurora, Colorado 80045, Telephone (303) 361-3509.

M. S. Healy,

OSD Federal Regiser Liaison Officer, Department of Defense.

July 19, 1983.

[FR Doc. 83-19852 Filed 7-21-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense 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) Titles of Information Collection and Form Number, if applicable; (3) Abstract Statement of the need for the uses of information collection; (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 to be forwarded; (8) The point-of-contact from whom a copy of the information proposal may be obtained.

Extension

Request for Health Benefits Under the Program for the Handicapped/Basic Program (CHAMPUS form 190)

The information requested is for the purpose of determining eligibility for benefits under the Program for the Handicapped and for extended hospitalization under the Basic Program, CHAMPUS. It is also used to establish beneficiary identifying information; appropriateness, source, and cost of care; and validate whether services requested are program benefits. Individuals or Households, Businesses or Other For-Profit, Non-Profit Institutions and Small Businesses or Organizations: 8,400 responses; 8,400 burden hours.

Forward comments to Ed Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John V. Wenderoth, Agency Clearance Officer, WHS, DIOR, ICD, Room 1C535, Pentagon, Washington, DC 20301, (202) 694-0187.

A copy of the information collection proposal may be obtained from Office Services Branch, ATTN: Jane Bomgardner, Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Aurora, Colorado 80045, Telephone (303) 361-3509.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 19, 1983.

[FR Doc. 83-19851 Filed 7-21-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the scheduled and proposed agenda of a forthcoming meeting of the full Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting, except for August 10, 1983, from 1:00 p.m. to 6:00 p.m., as it is closed to the public.

DATES: Full Council Meeting: August 10, 1983, 9:00 a.m. to 6:00 p.m. (1:00 p.m. to 6:00 p.m. closed); August 11, 1983, 9:00 a.m. to 5:00 p.m.; and, August 12, 1983, 9:00 a.m. to 5:00 p.m. (1:00 p.m. to 5:00 p.m. reserved for public testimony).

ADDRESS: National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Thomas E. Sawyer, Chairman, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004 (202/376-8882).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under Section 441(a) of the Indian Education Act (Title IV of Pub. L. 92-318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary for Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

On August 10, 1983, from 1:00 p.m. to 6:00 p.m., the Council will be reviewing applications of candidates for the position of Executive Director. The meeting will be closed, for that time period, under authority of Section 10(d) of the Federal Advisory Committee Act

(Pub. L. 92–463; 5 U.S.C. Appendix I), and under exemption (6) of Section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c)(6)). Discussions of the applications will include consideration of the qualifications and fitness of the candidates, and will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

The remainder of the meeting will be open to the public. The proposed agenda includes:

(1) Committee discussions and reports.
(2) Review of NACIE FY 83 budget.
(3) Plans for future NACIE activities.
(4) Regular Council business.
(5) Action on previous minutes.
(6) Public testimony (August 12, 1983, from 1:00 p.m. to 5:00 p.m.).

The meeting will be held at the National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004 (202/376–8882).

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located in the Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004.

Dated: July 18, 1983. Signed at Washington, D.C.

Thomas E. Sawyer,

Chairman, National Advisory Council on Indian Education.

[FR Doc. 83-19874 Filed 7-21-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/JA(EU)–25, from the Federal Republic of Germany to Japan, 25.2 kilograms of uranium, enriched to an average of 10.2% in U–235, 4.725 kilograms of uranium, enriched to an average of 19.9% in U–235, and 173.4 kilograms of uranium, enriched to an average of 6.15% in U–235, for use as fuel in the Japan Atomic Energy Research Institute (JAERI) Nuclear Safety Research Reactor and in the JAERI Semi-Homogenous Experimental Critical Assembly.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: July 18, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-19892 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

[File No.: TIE–1]

Intent To Develop Policy on Providing Access to the Pacific Northwest-Pacific Southwest Intertie; Request for Recommendation

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of intent and request for recommendations.

SUMMARY: The Pacific Northwest-Pacific Southwest Intertie is used to transmit electricity between the Pacific Northwest and Northern and Southern California. Use of the Interties is governed by contracts among utilities which own portions of the line or have executed contracts with one or more of the Intertie owners. BPA built a large portion of the Intertie in the Northwest, and acts for the United States (Government) with respect to Federal ownership in the Pacific Northwest portion of the Intertie, north of the Oregon/California border. BPA holds the most extensive rights to use the Intertie in the Northwest.

BPA intends to establish a policy to guide its response to requests from non-Federal parties for use of its Intertie capacity, within the context of existing contractual obligations. This policy will be called BPA's Intertie Access Policy.

DATE: BPA will accept recommendations for consideration in developing a proposed Intertie Access Policy Through August 19, 1983. Written recommendations should be postmarked by that date. In addition, BPA will endeavor to meet with all interested persons who may have questions concerning existing Intertie contractual commitments. To request such a meeting, interested persons should contact the BPA Area or District Manager in their locality, the office of Public Involvement, or the responsible official (listed below).

ADDRESSES: Recommendation should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212. Recommendations may also be submitted orally (at any of the scheduled meetings).

Responsible official: The official responsible for development of the Intertie Access Policy is James L. Jones, Deputy Power Manager.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048.

Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2581.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, West 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.
Mr. Fred Rettenmund, Boise District Manager, Owyee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9137.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Northwest-Pacific Southwest Intertie consists of three high-voltage transmission lines: Two 500-kilovolt (kV) alternating current (ac) lines and one 800-kV direct current (dc) line.

The ac lines extend from John Day Substation (John Day) near John Day Dam on the Columbia River to the Lugo Substation (Lugo) near Los Angeles. They are interconnected with other transmission lines at eight points, including the Malin Substation (Malin) near the Oregon/California border. Malin is the contractual ac delivery point of Northwest power delivered to California and vice versa. The ac legs of the Intertie can transmit electricity between the Northwest and Northern or Southern California, or to a limited extent between points on the line within either region.

The dc line runs directly from the Celilo Converter Station near The Dalles Dam to the Sylmar Converter Station near Los Angeles. The dc line transmits power directly between the Northwest and Southern California. Power is then redistributed throughout California on the ac line.

Present scheduling capability of the three Intertie lines is 4,360 megawatts (MW), 2,800 of which is on the two ac lines and 1,560 of which is on the dc line. The ac lines are being upgraded in California between Malin and Table Mountain Substation to 3,200 MW, an increase of 400 MW. BPA will utilize this 400 MW increase at the northern end of the Pacific Southwest Intertie by using the Government's additional capacity in the 500 kV Buckley-Summer Lake-Malin line. The ac lines from Malin north will remain at 2,800 MW. The dc line is being upgraded and will have a scheduling capability of 1,956 MW in 1985.

Use of the Intertie is governed by contracts among utilities which built portions of the lines and among other utilities which have contracted for use of the Intertie with one or more Intertie owners.

Intertie Ownership

The Northwest ac portion of the Intertie is primarily owned by the Government through BPA, and by the Portland General Electric Company (PGE). Pacific Power and Light Company (PP&L), PGE, and the Government (through BPA and the Western Area Power Administration (Western)) invested in facilities at the Malin Substation. PGE constructed the 500 kV Grizzly-Malin No. 2 line and connected it to one of the Government's 500 kV lines from Grizzly Substation to John Day. Contractually, the parties exchanged rights in each other's line portion. These rights are currently in dispute and are being negotiated.

Ownership south of the Malin Substation is as follows: PP&L owns a line section from Malin to Indian Spring; the Government (through Western) owns a line section from Malin to Round Mountain Substation; Pacific Gas & Electric (PG&E) owns everything else south to Midway Substation; from Midway south, Southern California Edison (SCE) owns the facilities to Lugo, which is the southern terminus.

The use of ac Intertie capacity in California is controlled by separate agreements to which BPA is not a party. The State of California Department of Water Resource (DWR) has 300 MW of firm capacity and Western has 400 MW of firm capacity south of Malin. The Sacramento Municipal Utility District (SMUD) has a contract with PG&E, SCE, and San Diego Gas & Electric (SDG&E) which provides SMUD 200 MW of firm capacity south of Malin. PG&E disputes SMUD's rights. However, SMUD recently won a ruling from the Federal Energy Regulatory Commission (FERC) confirming SMUD's right to such firm Intertie capacity. PG&E, SCE, and SDG&E split the balance of the ac capacity plus any unused portion of the DWR and Western capacity based on each party's respective percentages of 50, 43, and 7.

The dc Intertie was constructed by BPA and the City of Los Angeles. The Government owns the dc lines in Oregon. Ownership of the dc in California is split 50/50 public/private, and the percentages are divided among seven parties, as follows: PG&E 25.0 percent; SCE 21.5 percent; SDG&E 3.5 percent; Los Angeles (LADWP) 40.0 percent; Burbank 3.86 percent; Glendale 3.86 percent; and Pasadena 2.28 percent.

Reason for Policy Development

BPA and other Pacific Northwest utilities have surplus resources for a considerable period in the future. It appears that there will be more potential users of the Intertie than there is available Intertie capacity. Several utilities, resource developers, and other parties have recently asked BPA for firm or nonfirm contractual access to the Northwest portion of the Intertie. BPA must view these requests in the context of several concerns, one of which is the impact on Federal use of the Intertie. The Regional Preference Act (Pub. L. 88–552) provides first priority to the "transmission of Federal energy" (section 6). BPA now wishes to establish an Intertie Access Policy in order to provide for the transmission of electric power generated or acquired by the Government, and at the same time to respond to such requests consistently, in the best interests of the Pacific Northwest; in accordance with the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96–501), Regional Preference Act (Pub. L. 88–552), Federal Columbia River Transmission System Act (Pub. L. 93–454), and other applicable law; and in accordance with sound business principles.

Contracts Now Governing Use of the Intertie

Use of the Northwest Intertie is largely governed by a number of BPA contracts. BPA's Intertie Access Policy will be developed within the framework of these contracts. The contracts are explained briefly below.

The Exportable Agreement. The most significant contract currently governing use of the Intertie is the Exportable Agreement, Contract No. 14–03–73155. BPA and 14 Northwest utilities are parties to this agreement. At times, the Northwest's hydroelectric/thermal system is capable of producing more energy then can be marketed in the region at any established rate and the total amount of energy available exceeds the capability of the Intertie or the available California market. At such times, the Exportable Agreement allocation provisions go into effect.

Under the Exportable Agreement, BPA schedules the Government's apportionment of surplus nonfirm energy over the Intertie to entities outside the region. It has been the practice that such energy is sold under existing power sales contracts at the lowest rate specified under BPA's Wholesale Nonfirm Energy Rate Schedule, currently the NF–2 rate of 9 mills per kWh. Any other party to the Exportable Agreement may schedule its apportionment of energy that is excess to its need under section 5(b) and 5(d) of this agreement *provided that* such party is willing to sell at applicable BPA rates, currently the NF–2, 9 mills per kWh rate. When a party schedules its apportioned "Exportable Energy" to BPA, such party's energy is combined with all other Exportable Energy, and sold by BPA as Federal energy to California

utilities under BPA's existing power sales contracts at the lowest rate specified under BPA's Wholesale Nonfirm Energy Rate Schedule. The scheduling party is credited by BPA (i.e., paid) for its "sale" of Exportable Energy to BPA at the referenced rate. As of April 1, 1983, BPA agreed to allow a party to this agreement with a priorty to schedule (under section 5(c)) all or part of its apportioned share of an Exportable Energy schedule on a bilateral basis to a specific California entity. The rate for this bilateral energy may be different than the applicable BPA nonfirm rate, and is sold by the scheduling party to such specific California entity under its own sale contract.

Until January 1, 1989, the expiration date of the Exportable Agreement, when Exportable Energy is scheduled by parties over available ac and dc Intertie capacity under the Exportable Agreement, such schedules take priority over all other schedules on the Intertie except as otherwise noted below. Exceptions include:

(a) Until January 1, 1986, and pursuant to the Exportable Agreement, PGE is entitled to use its annually renewed 1,100,000 MWh Intertie access priority right described in Contract No. 14–03–55063 (with BPA) to absorb as much of any Exportable Energy schedule as it wishes, up to the limit of its priority right and subject to any priority sharing arrangement with PP&L. Every PGE Intertie schedule between the Northwest and Southwest counts against its priority right until such annual right is exhausted.

(b) Until January 1, 1987, and pursuant to the Exportable Agreement, PP&L is entitled to use its annually renewed 270,000 MWh Intertie access priority right described in Contract No. 14–03–56379 with BPA to absorb as much of any Exportable Energy schedule as it wishes, up to the limit of its priority right and subject to any priority sharing arrangement with PGE. Every PP&L Intertie schedule between the Northwest and Southwest counts against its priority right until such annual right is exhausted.

(c) Until April 1, 1988, The Washington Water Power Company (WWP) may have a firm, noninterruptible schedule of 40 average MW per week (112 peak) of combined ac and dc line capacity to San Diego Gas & Electric under Contract No. 14–03–79101 with BPA. This agreement was executed prior to the Exportable Agreement.

(d) Until July 1, 1991, WWP may purchase up to 60 MW of BPA's energy schedules under the Exportable Agreement, as amended or replaced, and displace such purchased energy with WWP's firm schedule to Southern California Edison (SEC) under Contract No. DE–MS79–81BP90185 with BPA.

When Exportable Agreement Is Not in Effect

When the Exportable Agreement is not in effect; i.e., when the hydroelectric/thermal system is not spilling or in imminent danger of spilling, and when the power offered for sale does not exceed Intertie capacity or the available California market, BPA uses the Intertie as a carrier for energy from all sources. BPA provides hour-by-hour access to available Intertie capacity to all Pacific Northwest, Canadian, and Pacific Southwest utilities in accordance with sales made between buyers and sellers in the market.

Generally, generating utilities in the northwest United States, southwestern Canada, and the southwest United States schedule energy over the Northwestern portion of the Intertie on a relatively short-term basis over "excess capacity" that BPA determines may be available during a given hour. To the extent markets between California utilities and the following utilities exist, the following exceptions to this general rule include:

(a) Until January 1, 1986, PGE may use its Intertie access priority right under Contract No. 14–03–55063 to fully utilize available Intertie capacity during a given hour for PGE's schedules, up to the limit of its priority right and subject to any priority "sharing" arrangement with PP&L. It should be noted that PGE must use any capacity of its own before it utilizes BPA's capacity on a priority basis.

(b) Until January 1, 1987, PP&L may use its Intertie access priority right under Contract No. 14–03–56379 to fully utilize available Intertie capacity during a given hour for PP&L's schedules, up to the limit of its priority right, and subject to any priority sharing arrangement with PGE.

(c) Until April 1, 1988, WWP has a firm, noninterruptible right to schedule energy up to 112 MW of Intertie capacity under Contract No. 14–03–79101. When such capacity is being utilized by WWP, it is not available for any other party's schedule.

(d) Until July 1, 1991, WWP may schedule up to 60 MW of firm energy to SCE under Contract No. DE–MS79–81BP90185.

Other BPA Uses of the Intertie

BPA must make firm generating capacity available, upon request, under provisions of several Peak/Energy Exchange Agreements between BPA and several California utilities. The contract demand right of these utilities is a total of 1202 MW throughout the year. In addition, PG&E has the right to 600 MW of peaking capacity from BPA during the period May through October (billed under Contract No. 14–03–54132, at BPA's CF–2 Wholesale Firm Capacity Rate Schedule).

These contracts expire on the following dates:

Utility	Contract No. (14–03–)	Expiration date	Contract demand (MW)
Burbank	53290	05/05/87	42
Glendale	53295	12/30/86	52.5
Los Angeles	50323	07/19/86	525
PG&E[1]	54134	07/31/87	0
Pasadena	53297	01/24/86	31.5
San Diego G&E[1]	58638	12/29/87	0
SCE	54126	07/31/87	550

[1] Note: PG&E and SDG&E are not requesting or receiving any exchange capacity from BPA under these agreements.

BPA's scheduling of firm capacity (Contract Demand) to fulfill its capacity/energy exchange obligations to five California utilities (Burbank, Glendale, Los Angeles, Pasadena, and SCE) benefits Northwest utilities by creating an additional market and a firm energy resource. These California utilities must provide peaking replacement energy and exchange energy (firm energy resource) to BPA pursuant to the Peak/Energy Exchange Agreements. This exchange energy is often purchased from (marketed by) Northwest utilities for delivery to BPA for the account of the California utility.

Non-BPA Contracts—California Sales, Exchanges, Transfers

There are a number of contractual arrangements between and among Northwest utilities and Southwest utilities to which BPA is not a party. A listing of long-term arrangements (5 years or more) involving import/export transactions is available from the BPA Public Involvement office. Such listing includes BPA and non-BPA arrangements.

Compliance with National Environmental Policy Act (NEPA)

BPA will review its proposal to establish an Intertie Access Policy to determine the level of NEPA documentation that is necessary. An appropriate environmental review under the U.S. Department of Energy's NEPA guidelines is being prepared and will be integrated into the development of such policy and will be available as an

information document at the time a policy is recommended. Environmental information will be made available to public officials and citizens and NEPA procedures will be completed before decisions are made and before actions are taken.

Intertie Access Policy Issues

BPA Invites early public review of the issues it has so far identified and expects to consider in formulating a proposed Intertie Access policy. In addition, BPA seeks advice and recommendations from interested persons on additional issues of which they may be aware. The issues BPA has identified include, but are not necessarily limited to, the following:

1. How can BPA best determine the amount of Intertie capacity, if any, which is excess to the Government's needs?

2. How can BPA best provide access to Northwest Intertie capacity which is excess to the Goverment's needs?

3. What consideration should BPA require to grant transmission rights to Intertie capacity otherwise needed by the Government? How should the rights of other entities, such as parties to the Exportable Agreement, be considered?

4. What priorties should be established by BPA in providing Intertie access for deliveries from the Pacific Northwest to the Pacific Southwest?

5. What terms of service should BPA offer for transmission on the Intertie?

Related BPA Policies and Issues

The Intertie is used to transmit firm and nonfirm energy surplus to the needs of the Northwest. BPA has several policies and processes underway involing other aspects of BPA transmission system or firm or nonfirm energy use. Decisions on these issues may affect or be affected by the Intertie Access Policy. BPA suggests that those who wish to make recommendations for the Intertie Access Policy do so in the light of the policy's relationship to these other issues, including:

1. *Resource Displacement Policy:* guiding displacement of resources for which BPA controls the generation. BPA published a Notice of Intent to develop this policy on July 19, 1982 (47 FR 31307). No proposed policy has been issued. Policy development has been postponed pending further study. Priorities for establishing access to the Intertie by resource type may affect the Resource Displacement Policy, if and when it is proposed.

2. *Transmission Policy:* for intraregional transmission services provided on the BPA transmission system for non-Federal power. BPA published a Proposed Policy on June 1, 1983 (48 FR 24421). The final policy is scheduled for completion in September 1983. The Transmission Policy will not be affected by the Intertie Access Policy; however, use of BPA Northwest transmission grid facilities by other parties to gain access to the Intertie will be controlled by the Transmission Policy.

3. *Policy on Nonfirm Energy Sales to Utilities' Industrial Loads:* for service by BPA of nonfirm energy to utilities for industrial loads which have other, nonelectric, sources of energy. BPA announced its intention to develop a policy on making nonfirm energy available to interruptible industrial loads on March 15, 1983 (48 FR 10903). The Proposed Policy is scheduled for publication and public comment this July. This policy involves one use of nonfirm energy in the Northwest. It may, at times, affect the amount of Intertie capacity required by the Government.

4. *BPA Wholesale Power and Transmission Rate Adjustment Processes:* BPA is now in the process of adjusting its wholesale power and transmission rates. These rates and any subsequent rates developed by BPA will be applied to BPA's energy and capacity sales over the Intertie, and to Intertie transmission access granted to others by BPA.

5. *Surplus Firm Energy Sales:* BPA is involved in bilateral negotiations for sale of Federal surplus firm energy to the Western Area Power Administration, Southern California Edison Company, and the Los Angeles Department of Water and Power. These sales, if executed, would affect the amount of Intertie capacity required by the Government. So would any other sales of Federal surplus firm energy.

Materials Available

Copies of the following documents related to Intertie Access Policy issues are available from BPA Public Involvement.

1. All contracts and **Federal Register** Notices referenced in this Notice.

2. The Bonneville Project Act, Federal Columbia River Transmission System Act, Regional Preference Act, and the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act).

3. Table II-2, a listing of long-term import/export transactions.

Issued in Portland, Oregon, on July 15, 1983.

James J. Jura,

Acting Administrator.

[FR Doc. 83-19948 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

Proposed Policy; Nonfirm Energy Sales for Utilities' Industrial Loads

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Proposed Policy and Request for Comments.

SUMMARY: The Bonneville Power Administration frequently has energy available for short periods of time in excess of its firm obligations. This occurs when stream flows in the Northwest Federal hydroelectric system are better than expected, when firm loads placed on Bonneville are temporarily lower than expected, or both. This short-term extra energy is called nonfirm energy. It typically occurs in the spring and summer months during the fish flush or when volume runoff is greatest due to melting snowpack.

This proposed policy establishes criteria under which BPA would make nonfirm energy available to Northwest utilities for resale to industries. The policy is designed to help make the fullest possible use of nonfirm energy within the Northwest, and to encourage industrial growth in the region. BPA requests comments on this proposed policy.

DATES: Written comments on the proposed policy should be postmarked no later than August 31, 1983. Oral comments may be submitted by telephone through August 31, 1983, to the Public Involvement Office at the numbers below. BPA will explain and discuss the proposed policy in detail at a Public Information Forum to be held from 9 a.m. to 4 p.m. on Tuesday, July 26, 1983, in Room 464, BPA Headquarters, 1002 NE. Holladay Street in Portland, Oregon.

BPA will hold Public Comment Forums to receive public comment at dates and locations to be announced.

ADDRESSES: Submit written comments to Ms. Donna L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503-230-3478. Oregon callers may call toll-free 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048.

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Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

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Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.
Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.
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Mr. Frederic Rettenmund, Boise District Manager, Owyhee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9138.

SUPPLEMENTARY INFORMATION:

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A. General Background

Nonfirm energy is electricity which is subject to interruption or curtailment. Such energy may be available from time to time, but cannot be expected to be available on a guaranteed continuous basis. In a hydroelectric system, any year with better than average snowpack and runoff may produce substantial nonfirm energy in the spring, sometimes extending into the summer. In drier years, the same hydroelectric system may produce little or no nonfirm energy.

BPA sells electricity from 30 Federal hydroelectric projects in the Pacific Northwest, as well as from other resources. In good water years, BPA sells substantial amounts of nonfirm energy in addition to its firm power sales. In the past, BPA has sold nonfirm energy primarily to generating public and investor-owned utilities in the Pacific Northwest, and to California utilities when all Northwest markets have been saturated. BPA uses nonfirm energy to supply a portion of its direct-service industrial customers' (DSI's) load but sells this under a different rate, the Industrial Firm Power Rate (IP–2).

At times, nonfirm energy supplies exceed available market and/or transmission capacity. When that occurs, water is spilled over the spillway instead of generating electricity. Studies of BPA's hydroelectric operation indicate that BPA will spill water that could be used for generation during 1 or more months of 33 years out of 40 historical water years of record, based on forecasted loads for Operating Year 1985 (OY 85). If BPA can sell the energy that can be produced from that water without causing a reduction in firm power revenue, BPA's financial position will benefit. Availability of nonfirm energy that would be spilled varies from 0 average MW to 2535 average MW over the 40 historical water years assuming forecasted loads for OY 85, with average availability of nonfirm energy being 689 MW. During 7 out of 14 consecutive years of record, assuming test year loads, BPA would have no spill available. During an additional 5 years of the 40 historical water years, BPA would have spill energy available for only 1 month of a year. Thus, it is important that BPA develop a nonfirm market that can accommodate the fluctuations in nonfirm availability.

BPA's present rates for nonfirm energy are 18.2 mills per kilowatthour (kWh) at the Standard Rate, 11.2 mills per kWh for contract sales, and 9 mills per kWh at the Spill Rate, i.e. when the hydroelectric system is spilling or is forecasted to spill water over the spillways. For comparison purposes, BPA's present firm power rates are on an average 18 mills per kWh to publicly owned utilities (PF–2), 24.5 mills per kWh to direct-service industries (IP–2), 29.5 mills per kWh for the investor-owned utilities (NR–2), and 32.2 mills per kWh for surplus firm power (SP–1) sales. These rates are subject to change. BPA is currently in the process of establishing new rates, which will go into effect November 1, 1983.

B. History of Policy Development to Date

During the past year, Northwest loads have been significantly lower than expected, due in part to the regional recession. At the same time, the region has experienced a particularly good water year. As a result, nonfirm energy has been available at the spill rate of 9 mills per kWh since January 1983. Even at the Spill Rate, some nonfirm energy has gone unsold.

In order to assist the Northwest economy and to increase its sales, BPA has begun to look for new ways to market nonfirm energy in the Northwest.

On November 30, 1982, BPA requested recommendations from the public on ways it could effectively market surplus firm energy (47 FR 53928). A number of the 58 respondents suggested BPA investigate ways to market nonfirm energy in the Northwest, as an alternative to firm energy sales outside the region. The Pacific Northwest Electric Power Planning and Conservation Council has recommended that BPA make surplus energy available to irrigators at reduced rates and employees of BPA's direct-service industrial customers recommended BPA make blocks of power available to the region's aluminum industry at reduced rates.

1. Interim Principles for Sales of Nonfirm Energy for Interruptible Loads

In January 1983, BPA drafted principles for selling nonfirm energy to its Northwest utility customers for industrial loads with other energy sources. BPA made sales of this type available to Northwest utilities on an interim basis, pending completion of the policy proposed below. BPA discussed the interim principles with representatives of publicly owned utilities, investor-owned utilities, the direct-service industries, and industrial consumers of Northwest utilities.

To date, six utilities have signed interim nonfirm energy sales contracts.

a. *Umatilla Electric Cooperative* has purchased up to 40 averae megawatts for three potato processing plants. Deliveries of about 17 average MW began January 9, 1983. All three plants have natural gas-fired boilers as alternate fuel sources.

b. *The City of Port Angeles* has been purchasing approximately 7 average MW of nonfirm energy for an electric boiler at a Crown Zellerbach paper mill since February 1, 1983. The mill can use wood waste in lieu of electricity.

c. *Cowlitz County Public Utility District* has been purchasing approximately 75 average MW of nonfirm energy for electric boilers at Longview Fibre and Weyerhaeuser mills since February 25, 1983. These mills can also use wood waste as fuel.

d. *Tillamook County People's Utility District* has been purchasing approximately 3 average MW of nonfirm energy since June 11, 1983, for service to a boiler at the Tillamook County

Creamery Association. The creamery can use oil as an alternate fuel.

e. *Snohomish County Public Utility District* has been purchasing approximately 45 average megawatts of nonfirm energy for service to the electric boiler loads of the Weyerhaeuser Kraft and Lumber Manufacturing Facility and the Boeing Commercial Airplane Company since May 11, 1983. Weyerhaeuser can run alternate fuel boilers with natural gas, oil, or black liquor, a by-product of pulp production. Boeing can fire boilers with natural gas or oil in lieu of electricity.

f. *Lewis County Public Utility District* has been purchasing approximately 3 average megawatts of nonfirm energy since June 9, 1983, for service to the American Crossarm Company. Lewis is receiving nonfirm service under the curtailment provisions of the interim nonfirm principles, i.e. for the portion of their load that would not have otherwise operated due to economic conditions.

2. Request for Comments on Interim Principles

On March 15, 1983, BPA requested comments on the interim principles for sales of nonfirm energy for interruptible industrial and irrigation loads (48 FR 10903). In the same notice, BPA proposed to sell nonfirm energy to its direct-service industrial customers through October 31, 1983, in order to encourage restart of idle industrial capacity and increase BPA revenues.

BPA received 59 comments on both subjects. Of those who commented on the interim principles, many noted that the principles were difficult to apply to irrigation sales. Those who commented on the principles as they applied to industrial loads generally supported the concept, and made specific comments on the contract restrictions contained within the interim principles. In light of these comments, BPA took the actions described below.

3. Offers to Direct-Service Industries and for Irrigation Loads

On March 22, 1983, BPA offered nonfirm energy to the DSI's through October 31, 1983. Nine of the 15 DSI customers accepted the offer. Together, they are buying more than 430 average MW under the offer, increasing BPA revenues by $20 million to $29 million.

On April 8, 1983, BPA proposed to offer nonfirm energy for increases in Northwest irrigation loads and requested comments on that proposal. BPA revised the proposal in the light of comments received from 36 parties. On April 20, BPA offered nonfirm energy to its public and Federal agency customers for increases in their irrigation loads. In response to this offer, 27 utilities signed that nonfirm irrigation agreement.

These sales have helped make more effective use of this year's exceptionally large volume of nonfirm energy.

All the arrangements for the sale of nonfirm energy, however, expire on October 31, 1983. The DSIs and utilities with substantial irrigation loads are pursuing their concerns about long-term BPA rates through BPA's 1983 wholesale power rate process which is now underway.

4. Proposed Policy on Sales of Nonfirm Energy for Interruptible Loads

There remains the issue of BPA's long-term policy regarding sales of nonfirm energy for interruptible industrial loads. BPA has reviewed the comments submitted in response to its March 15, 1983, **Federal Register** notice. BPA has also discussed the interim principles regarding such sales with representatives of publicly and investor-owned utilities and with industries that might take advantage of nonfirm service. The agency has taken particular note of the operating experience to date afforded by the interim contracts now in effect with Umatilla Electric Cooperative Association, Cowlitz County Public Utility District, the City of Port Angeles, Snohomish Public Utility District, Lewis Public Utility District, and Tillamook Peoples' Utility District. All comments have been taken into consideration in development of the proposed policy below. BPA will accept public comment on the proposed policy through August 31, 1983.

5. Procedure for Policy Completion

Following closure of the public comment period, BPA will prepare a Staff Evaluation of the Record analyzing comments received and recommending terms of the final policy to the Bonneville Power Administrator. The Administrator will then determine the terms of the final policy, and will articulate the policy and the basis for his decision in a Record of Decision. The final policy will become effective upon publication in the **Federal Register**. BPA anticipates that the final policy will be published on or about November 1, 1983.

6. National Environmental Policy Act (NEPA) Compliance

NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. BPA has undertaken a review of the proposed policy to determine the level of NEPA documentation that is necessary in this case. Appropriate environmental review under DOE's NEPA guidelines will be prepared and integrated into the development of the proposed policy, and will be available before the final policy is decided upon.

C. Definitions

The following definitions are included as a service to the reader. These definitions are not intended to be binding in any manner on the implementation or interpretation of the following policy:

"Base historical firm load" or "base firm load" means that portion of a consumer's load which data indicates has been firm in the past. BPA proposes not to serve load which has historically been firm with nonfirm energy. BPA may make exceptions to the extent that a lower base firm load level would more accurately reflect long range trends. For example, if an industrial consumer has shut an electric boiler down because of electric rate increases, the base firm load may be adjusted to zero.

"Consumer" refers to an industrial account served by a utility.

"Customer" refers to a utility who is a customer of BPA's.

"Contracted for or committed to determination" means a determination made pursuant to Section 3(13)(A) of the Regional Act as may be stated in Exhibit K, Table 2 of the Purchaser's Regional Act Power Sales Contract, as applicable.

"Critical period" means that portion of the historical streamflow record which defines the maximum amount of energy which the system is able to produce without failure; the period of record which would have produced the smallest amount of energy in the same monthly distribution as the system's firm loads.

"Energy meter" is a device which measures the total kilowatthours of energy passing a given point.

"Firm load" means the actual maximum integrated 1-hour monthly peak and average monthly energy loads of the Customer's system in the Pacific Northwest, which Bonneville is obligated to supply with firm power. Firm load does not include any load that the Customer has a unilateral right to restrict.

"Firm Power" means power which is guaranteed by the supplier to be available at all times except for reason of certain uncontrollable forces or continuity of service provisions.

"Hourly recording demand meter" is a device which records the number of kilowatthours used for each consecutive one-hour period at a given point.

"Maximum nonfirm load level" means the maximum amount of nonfirm energy which BPA will serve to a purchaser for

a consumer's nonfirm load; the electric service level which is equivalent to the capacity of the alternate fuel source, less the base firm load.

"Nonfirm contract" means a contract which would be offered as a result of this policy to provide nonfirm service to utilities for service to their industial consumer's nonfirm loads.

"Nonfirm energy" means energy supplied or available under an arrangement which does not have the guaranteed continuous availability feature of firm power.

"Nonfirm load" means the portion of a Consumer's load which is capable of being served by electricity and which has an alternate, nonelectric fuel source capable of serving and available to serve the load when electricity is not available.

"Nonfirm service" means the service of nonfirm energy to a utility customer by BPA. BPA has the unilateral right to restrict this service at the end of any hour in which BPA determines that nonfirm energy is no longer available.

"Nonscheduling purchaser" refers to a utility that does not operate automatic generation control equipment; i.e. a utility does not have equipment which regulates power output of electric generators within a control area in order to maintain system frequency.

"Point of delivery" is the point where Bonneville delivers power to a Customer.

"Point of metering" in regard to this policy refers to the point at the consumer's nonfirm load where power is metered. To determine the amount of nonfirm energy delivered at a Purchaser's point of delivery, a loss factor is applied to the amount of nonfirm energy received at the consumer's point of metering at the nonfirm load.

"Purchaser" refers to a utility which enters into a nonfirm contract as a result of this proposed policy.

"Regional Act" refers to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501.

"Regional Act power sales contract" refers to the power sales contracts which were offered to the utilities of the Northwest pursuant to the Regional Act. The terms of these contracts are frequently referred to in the proposed policy.

"Scheduling purchaser" refers to a utility which operates automatic generation control equipment; i.e. a utility who operates equipment which regulates power output of electric generators within a control area in order to maintain system frequency.

"Spill or forecast of imminent spill" means the volume of nonfirm energy available exceeds or is about to exceed available markets; spill occurs when water is passed over the spillways of dams, rather than through generating turbines.

"Varhour meter" is a device which measures the reactive energy in a circuit.

D. Scope of Policy

BPA proposes to make nonfirm energy available to its Northwest utility customers for service to industrial loads which can meet their energy needs with an alternate fuel source at times when BPA determines that nonfirm energy is not available. As the result of its efforts to make nonfirm energy available under short term agreements this year, BPA has learned that loads that were once served with firm power are either being lost to alternate fuels or are being shut down altogether. Firm power service to loads that are being lost to alternate fuels had previously varied depending on the market for the product of the industry and the availability of cheap alternate fuel. However, until recent firm power rate increases, firm power was generally competitive with alternate fuels. By making nonfirm energy accessible to these loads, BPA hopes to provide intermittent electric service to some loads which have been lost to the region, and encourage development of new interruptible loads.

BPA's objectives in this proposed action are to: (1) To allow BPA's utility customers and their industrial consumers to enjoy the benefit of low cost energy when it is available, and thereby improve the region's economy; (2) to utilize BPA nonfirm hydroelectric resources that would otherwise be wasted; (3) improve BPA revenues by stimulating nonfirm energy sales that would not otherwise take place; and (4) to avoid conversion of existing firm load to nonfirm load and therefore loss of firm sales and firm revenues.

BPA plans to enter into specific contracts with its utility customers to implement this policy when this policy is final.

1. Type of Load

BPA has limit the scope of the proposed policy to service to the nonfirm loads which are over 2 average MW of industrial consumers of its utility customers.

Other loads which were recommended for consideration for nonfirm service included commercial and residential consumers' loads such as swimming pools, interruptible space heating service backed by wood-stoves, etc. These loads are not addressed in this proposal because utilities find it economically unfeasible at present, for these loads to receive nonfirm service, i.e. the cost of the metering and communications equipment outweigh potential benefits from nonfirm service. Another important consideration in limiting this policy to industrial loads with alternate fuel sources was the potential loss of firm load. BPA cannot afford to lose load that would otherwise be firm to nonfirm status. Loss of firm load to nonfirm status creates pressure to increase firm rates and thus unfairly burdens firm ratepayers of the Region. These other potential loads may be addressed in future nonfirm policies of broader scope than this policy. Nonfirm service to other types of loads would have to meet all of BPA's objectives of avoiding loss of firm loads, utilization of hydroelectric resources and improving revenues.

The Pacific Northwest Electric Power and Conservation Planning Council (Council) recommends in its 1983 Northwest Conservation and Electric Power Plan that BPA take measures to develop new markets for nonfirm energy, i.e. new installations such as boilers, which could utilize nonfirm energy service. Several large industrial consumers of utilities have made the same recommendation. BPA encourages this goal but is limited in the measures it can take. BPA cannot guarantee availability of nonfirm energy to such prospective loads. Further, BPA does not feel it is appropriate at this time to subsidize new installations which might utilize nonfirm energy, however BPA intends to encourage industries to consider new installations through the terms of this policy.

BPA proposes to limit this policy to service to industrial nonfirm loads over 2 average MW for the following reasons:

a. Because of increasing firm power rates and the relatively low cost of alternate fuels, many industrial loads have switched to alternate fuels. These loads would only use electric energy if it were available at less than firm power rates. Thus, service to this type of industrial loads does not result in displacement of firm electric service, but rather in displacement of the alternate fuels.

b. Nonfirm loads are not likely to suffer hardship in the event of a restriction of nonfirm energy availability, because they can switch to an alternate fuel. BPA is thus not likely to receive pressure to continue serving these loads with firm energy when nonfirm energy is not available.

c. Nonfirm loads over 2 average MW are generally large enough so that installation of necessary metering and

communication equipment for nonfirm service is economically feasible.

d. Industrial nonfirm loads are easily identifiable and can be easily restricted. This assures BPA that offering nonfirm will not covert firm load to nonfirm service, which would undercut firm revenues.

Under the proposed policy, BPA intends to make nonfirm service available only for the part of the nonfirm load which is in excess of each industrial consumer's base historical firm load levels. Furthermore, this policy proposes that the level of nonfirm service shall not exceed the difference between the equivalent electrical capacity of the alternate fuel source historical firm service levels or base firm load. BPA would discount recent electrical load operating level in determining historical firm load levels if recent fluctuations do not reflect long range trends, i.e. if an electric boiler was put out of service due to rate increases, this base firm level would be 0 MW. In determining base firm load levels and nonfirm load levels, BPA would avoid loss of firm load to nonfirm energy service.

2. Availability of Nonfirm Energy

Interested parties have discussed limiting this policy to nonfirm "spill" energy only. BPA doen not propose to limit this policy to spill energy only. BPA proposes to make nonfirm available to purchasers for service to consumer's nonfirm loads at any time that BPA determines nonfirm energy is available. The determination of nonfirm energy availability is solely BPA's determination.

BPA would notify the purchaser of estimated duration of nonfirm availability, price of the nonfirm energy, and amount of nonfirm energy.

In the event that demand for nonfirm energy exceeded the supply, BPA would allocate the available nonfirm energy in accordance with Pub. L. 88–552 and the Central Lincoln I decision until such time as that case is finally adjudicated by the U.S. Supreme Court, and on a pro rata basis within a customer class. This means that: (1) According to Pub. L. 88–552, Northwest markets will be served first, e.g. prior to Southwest markets, (2) within the Northwest, public agencies will be given preferential access to nonfirm energy; and (3) within a customer class, i.e. public agencies, nonfirm energy will be prorated according to requests for such energy.

E. Terms of Nonfirm Service Under the Proposed Policy

1. Price

a. *Wholesale.* BPA cannot determine a rate for nonfirm energy in this policy. Rates which would apply to nonfirm service are presently being established, along with other BPA wholesale power rates, in the wholesale power rate adjustment process which will result in a Rate Adjustment Date of November 1, 1983. BPA does not propose to require "take or pay" requirements in its nonfirm contracts.

If the nonfirm energy rate schedule adopted on the upcoming Rate Adjustment Date contained a displacement rate, the decremental cost of each industrial consumer's alternate fuel would be established in the nonfirm contract between BPA and the utility.

b. *Retail.* BPA has not proposed inserting a provision in the final policy which would limit a purchaser's markup of nonfirm energy, however, BPA will consider inserting a provision in the final policy limiting utility markup for nonfirm energy in the event that utilities and consumers fail to agree on retail rate markups in their contracts, or if utility markups make nonfirm uncompetitive.

BPA encourages any consumer considering entering into a contract for nonfirm service with its utility pursuant to this policy to megotiate a maximum markup for the duration of the contract.

Under the interim nonfirm agreements, BPA felt that a limitation on the amount of markup a utility attempted to pass through to a consumer would be unnecessary because it was expected that the utility and the consumer would cooperate to develop a satisfactory rate. Generally, that was the case. However, BPA received comments from certain consumers that their utilities were attempting to pass through too high a markup on the nonfirm, resulting in delays in entering into an interim agreement. Utility markup in nonfirm retail rates could cause those rates to be uncompetitive with alternate fuels. BPA encourages purchasers to consider adopting retail nonfirm rates designed to be competitive with alternate fuels.

c. *Facilities.* Purchasers who take advantage of the nonfirm service proposed under this policy would be responsible for installation of metering and communication equipment required under the policy. BPA does not propose to recover the cost of such facilities from nonfirm revenues. However, BPA may install the facilities for the purchaser at the purchaser's or the consumer's expense.

(i) *Metering.* In order to segregate the amounts of nonfirm energy from amounts of firm power delivered at the point of delivery, an hourly recording demand meter, an energy meter, and a varhour meter are required at each consumer's nonfirm load under the proposed policy. For both metered and computed requirements purchasers, installation of these meters at the load will provide a means of computing the amount of nonfirm energy for which the purchaser will be billed and will verify that the nonfirm energy actually served to the consumer's nonfirm load.

BPA has implemented a program to install remote reading equipment on point-of-delivery meters. When BPA installs remote reading capability on a point of delivery, BPA proposes that the purchaser would also be required to install remote reading capability at the point of metering. This would allow BPA to prepare billings in a timely fashion and to allow BPA's Division of Power Supply daily access to amounts of nonfirm actually taken. The current cost of such remote equipment is about $2300. The purchaser would also have to provide a dedicated telephone line as part of the remote reading equipment.

(ii) *Communications.* Bonneville expects to install an automatic communications system which will facilitate notification of the purchaser of nonfirm availability. The purchaser would be required to have a hard copy terminal with auto answer modem to receive messages from BPA. The cost of the terminal is about $1500. A dedicated phone line would also be required. More frequent communication from BPA would result because of the ease of operating the communication system. If a purchaser or consumer had any question about a message received, it could call BPA. If the purchaser and the consumer desired, an additional communication terminal could be installed at the consumer's facility.

d. *Operations.*

(i) *Notification of Nonfirm Energy Availability.* Under the proposed policy, BPA would notify each purchaser when it had nonfirm energy available for the consumer's nonfirm loads. The notification would include estimated price, duration, and amount of nonfirm energy available. However, BPA would provide the best estimates it could, based on current information and BPA would inform the utility of any revisions in its estimates with maximum practicable notice. It would be the responsibility of the purchaser and the consumer to respond to any change in availability.

(ii) *Purchase of Nonfirm Energy.* During periods of nonfirm energy availability, nonscheduling purchasers would notify BPA's schedulers by noon of the workday prior to the commencement of nonfirm service to a load that they desired to commence nonfirm service. It is anticipated that nonscheduling purchasers would not need to contact BPA until the workday before an anticipated change of more than 10 percent in their nonfirm load. BPA schedulers, may, however require more frequent communications.

Scheduling purchasers should follow appropriate scheduling procedures specified in their power sales contracts.

(iii) *Transition to Alternate Fuel.* At times when BPA no longer has nonfirm energy available, any energy taken for the nonfirm load over the maximum nonfirm load level established in the nonfirm contracts would be billed at the unauthorized increase charge in the BPA firm power rate schedule.

In discussions with utilities and consumers regarding the interim nonfirm agreement, BPA was asked if there was a way it could ease the transition from nonfirm energy to the alternate fuel. Different loads need different lead times to bring up their alternate fuel source. Several ideas were discussed, including extended notice, storage, replacement energy, energy advances, and sale of firm surplus for the transition period.

BPA does not normally accept storage during spill periods. Replacement energy may not be available in time if notice of termination of nonfirm energy is short. BPA would not be able to make an advance without the ability to later restrict firm load for repayment. Firm surplus may be committed at the time of a termination of nonfirm availability. Hence, none of these ideas appear to present practical solutions.

BPA intends to give maximum practicable notice to purchasers of any change in nonfirm availability. BPA generally knows about a week in advance when spill energy will no longer be available. After a spill period, a nonfirm energy often continues to be available, but it is generally more difficult to forecast the availability of this type of nonfirm energy. Therefore, BPA proposes in this policy to reserve the right to give notice of termination of nonfirm availability, effective at the end of hour.

BPA might consider providing a short fixed notice period of the end of nonfirm availability, should comments received on the proposed policy warrant this. However, the result of this fixed notice period would be that BPA will be more conservative in giving notice and thus, nonfirm availability might extend beyond the end of the notice period.

In the event of a sudden loss of capacity or transmission, BPA would give notice if possible, but there is little which can be done to mitigate the effects of an unexpected change of availability of this sort.

BPA offers a guaranteed-delivery provision on a take-or-pay basis in the current rate schedule for nonfirm energy. The delivery is generally guaranteed through the next prescheduled day. If BPA offers a guaranteed delivery provision in subsequent nonfirm energy rate schedules, the purchaser could take advantage of such an offer under nonfirm contracts concluded in accordance with this policy. Such guaranteed deliveries are subject to restriction in the event of a system emergency.

e. *Planning Obligations and Firm Service.* By definition, BPA is not obligated to have nonfirm energy available. In Operating Year 1983, BPA enjoyed a good water year with an abundance of nonfirm energy. This abundance was increased by BPA's firm load underruns. As conditions change, consumers served with BPA nonfirm energy may wish to convert nonfirm loads to firm service. BPA is not obligated to allow such a conversion before the expiration or termination of the nonfirm contract, but may allow such a conversion prior to that time. BPA proposes that firm service to these nonfirm loads would be subject to the requirements of sections 8 and 9 of the Regional Act Power Sales Contract, but in no case on less than 2 years' notice.

The nonfirm load is limited to nonfirm service for the duration of the contract to prevent switching between firm power when firm power is economical, and nonfirm energy when nonfirm is available and economical. Allowing such switching could effectively result in serving a firm load, for which BPA has a firm planning obligation, with nonfirm energy.

The proposed duration of the nonfirm contracts to be offered under this policy is through June 30, 1987, approximately equal to BPA's 42-month critical period. During that critical period, BPA is projecting a firm surplus which would continue beyond the critical period. This also allows sufficient time to gain experience under this policy and to allow the contracts to be brought in line with any subsequent nonfirm policy development. Resources to provide firm service may be available upon expiration of the contract. If consumers taking nonfirm under the proposed policy desire to receive firm service after the term of the contract, their purchasers would be required to give BPA 2 years' notice of such intent.

BPA proposes that nonfirm contracts concluded in accordance with this policy should provide for consultation between BPA and the purchaser at the end of the second and third contract years concerning their ability and desire to enter into a subsequent nonfirm contract. For any such subsequent nonfirm contract, BPA might require different notice for firm service to such loads if BPA is no longer in a surplus condition. Further, if due to a declining surplus, higher alternate fuel prices, or increased market for the consumer's product, a consumer feels that nonfirm energy availability would be too low, it may not wish to commit to nonfirm service for an extended term.

e. *Other Provisions.*

Under the proposed policy, BPA would require the purchaser to include a provision in the contract with its consumers providing BPA access to reasonable information concerning the nonfirm load. Such information could be used to verify the production capacity of the nonfirm load, to verify the decremental cost of the alternate fuel, and also for BPA forecasting purposes. BPA will require the purchaser to have a unilaterally interruptible contract with the consumer which also allows BPA the right to inspect electrical facilities at the load to verify compliance.

F. Policy for Nonfirm Energy Sales for Utilities' Industrial Loads

1. *Objectives.* This policy for the sale of nonfirm energy for the qualifying industrial loads of their consumers is intended to accomplish the following objectives:

a. To avoid loss of firm load.

b. To utilize BPA nonfirm hydroelectric resources that would otherwise be wasted.

c. To allow BPA's customers and their industrial consumers to enjoy the benefits of low cost energy, and, by doing so, to improve the region's economy.

d. To improve BPA revenues.

2. *Summary Policy Statement.* BPA will make nonfirm energy available to Northwest utilities for service to their industrial consumers' nonfirm loads over 2 average MW and which are in excess of base historical firm load levels to the extent that such loads are capable of being served with an alternate fuel source (nonfirm loads).

3. *Policy Action.* Bonneville will offer to negotiate contracts consistent with this policy with Northwest utilities who have qualifying nonfirm loads.

4. *Nature of Load and Level of Nonfirm Energy Service.* Nonfirm load shall have the capability to substitute energy produced by an alternate fuel for nonfirm electrical energy made available under this policy. Nonfirm electrical energy service shall be available for the nonfirm load(s) above the historical firm power and demand levels to such loads, but the energy and demand level of such nonfirm service shall not exceed the difference between the historical firm power service level for each nonfirm load and the level for which alternate fuel may be substitued. Historical firm power service levels and maximum energy and demand levels for nonfirm service shall be determined by agreement of Bonneville and the Purchaser.

Bonneville will allow a change in the maximum demand level for nonfirm energy service to a nonfirm load if:

a. The Purchaser requests an increase in such level and Bonneville determines that the alternate fuel capability has increased, or

b. Bonneville determines that the alternate fuel capability has decreased.

In all cases, BPA will avoid loss of firm load to nonfirm energy in determining base firm load levels and maximum nonfirm load levels.

The utility shall have the unilateral right to restrict electric service to each Consumer's nonfirm load on or before the end of the last hour in which BPA notifies the utility that nonfirm energy is no longer available.

The utility shall allow the consumer to switch to an energy source other than electricity when nonfirm energy is not available, or when nonfirm energy from BPA is uneconomical to the industrial consumer.

5. *Contract Between BPA and the Utility.* In order to implement this policy, BPA and interested utilities with a nonfirm load shall negotiate and enter into nonfirm contract extending through June 30, 1987. All such nonfirm contracts shall be substantially in the form prescribed by BPA, although BPA and the utility may agree to different terms if such terms are consistent with this policy or address matters not dealt with by this policy.

The nonfirm energy contracts shall have the BPA General Contract Provisions form PSC–1, as amended, attached as an exhibit. The appropriate BPA rate schedules shall also be attached as an exhibit to each nonfirm energy contract. Nonfirm contracts shall also have exhibits specifying relevant base load levels, maximum nonfirm levels, points of delivery, points of metering, and losses. Each nonfirm contract shall provide the the utility shall obtain the right in its contract with the consumer to allow BPA to inspect the electrical facilities of the consumer, and to obtain reasonable information regarding service to the nonfirm load by the alternate fuel source. The contract shall also provide that BPA and the utility shall consult at the end of the second and third contract years concerning their ability and desire to enter into a subsequent nonfirm contract.

Further, each nonfirm contract shall also provide that the utility shall indemnify and hold BPA harmless from any claim resulting from restriction of nonfirm energy, and shall provide that the utility will have a similar provision indemnifying and holding BPA harmless in the utility's contract with the consumer.

6. *Availability of Nonfirm Energy.* BPA shall solely determine the amount of nonfirm energy that it has available for sale, BPA shall offer such energy for sale under BPA's nonfirm energy rate schedule, which may, from time to time, be revised in accordance with section 7(i) of the Regional Act. In the event that allocation of available nonfirm energy is necessary, BPA shall allocate such energy in accordance Pub. L. 88–552 and with the Central Lincoln I decision until such time as that case in adjudicated by the U.S. Supreme Court, and on a pro rata basis within a customer class.

7. *Notification.*

a. *Required Facilities.*

(1) Prior to installation by BPA of the facilities described in paragraph (2), the utility shall provide and maintain a 24-hour phone number or a day and a night phone number for the purpose of receiving nonfirm availability information from BPA.

(2) BPA intends to install a computer-initiated dial-up system for transmitting notification to utilities with contracts pursuant to this policy. When BPA has completed installation of the dial-up system, the utility shall provide, at its expense, a hard copy terminal equipped with an auto-answer modem (300 baud, Bell 103 compatible) connected to a dedicated phone line. The consumer, at its expense, may provide similar facilities.

b. *Notification of Availability.* From time to time BPA shall notify utilities over the required facilities of the projected availability of nonfirm energy, including projected price, projected amount, projected duration, and other relevant information. If a consumer has chosen to participate in the dial-up system described in paragraph (a)(2), BPA shall also provide this notification to the consumer.

c. *Notification of Purchase.* During any period of nonfirm availability, each participating utility shall notify BPA's Branch of Power Scheduling of the level of nonfirm service it requests, in a manner consistent with the terms of its nonfirm contract. Scheduling utilities shall follow scheduling procedures required by their power sales contracts. Nonscheduling utilities will contact Power Scheduling by 1200 hours of the workday preceding desired delivery of nonfirm energy. BPA retains the right to require nonscheduling utilities to provide information each workday concerning its nonfirm load through the next workday. Normally, however, BPA will only require subsequent notification from nonscheduling utilities in the event of a significant change in the level of nonfirm service.

d. *Notification of Change in Availability.* BPA shall give maximum practicable notice over the facilities required above of any change in price, amount, or duration of availability of nonfirm energy, but reserves the right to change the price, amount, or duration of availability, at the end of any hour.

It shall be the responsibility of each utility and consumer to respond to notification of any change in availability.

8. *Metering.* Each utility and/or consumer shall provide separate metering at the nonfirm load. Such meters shall include an energy meter, an hourly recording demand meter, and a varhour meter. Such meters and meter installations must be approved by BPA for billing accuracy and compatibility with BPA remote reading equipment. When BPA installs remote reading equipment at a point of delivery which serves a nonfirm contract load, each utility and/or consumer shall provide for installation of remote reading equipment at each nonfirm consumer's point of metering. BPA and the utility shall agree on appropriate demand and energy loss factors between each nonfirm consumer's point of metering and the corresponding point of delivery. Until installation of remote reading equipment, the utility shall read meters at each nonfirm consumer's point of metering when meters are read at the corresponding point of delivery and shall immediately furnish BPA with the readings.

9. *Billing.* BPA shall bill utilities for nonfirm energy delivered at each point of delivery. This amount shall be determined by applying an appropriate loss factor to the amount of energy metered at the consumer's nonfirm load

In order to back demand associated with the nonfirm energy deliveries out of

a point of delivery's peak or coincidental peak, the data from the hourly recording demand meter will be used with appropriate loss factors applied.

10. *Rates.* BPA shall sell nonfirm energy to a utility at the applicable rate specified in the Nonfirm Energy Rate Schedule. The unauthorized increase charge in BPA's firm power rate schedule shall apply to any energy taken by the utility for the nonfirm load which is in excess of nonfirm energy made available by BPA. BPA may provide a guaranteed delivery provision in its Nonfirm Energy Rate Schedule. Any such guaranteed delivery provisions specified in BPA's Nonfirm Energy Rate Schedule will apply to these sales.

11. *Customer Service Facilities.* BPA will not provide transmission, transformation, distribution, metering or communications facilities specifically to serve a nonfirm load. Bonneville may agree to provide transmission, transformation, or metering facilities at the utilities' or the consumers' expense.

12. *Firm Service.* Loads receiving nonfirm service under contracts executed pursuant to this policy shall not receive firm service during the term of such contract, unless otherwise agreed. Firm service will be provided to a nonfirm load in accordance with sections 8 and 9 of the utilities Regional Act Power Sales Contract, if appropriate; *Provided, however,* That the utility will provide at least 2 years' notice of its desire to receive firm service for the nonfirm load.

Issued in Portland, Oregon on July 12, 1983.

James J. Jura,

Acting Administrator.

[FR Doc. 83-19947 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-234 et al.]

American Can Co. et al.; Applications for Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilities under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel oil displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding these applications is listed below, while more detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

1. 83-CERT-234.

Applicant: American Can Co., Greenwich, Conn.

Date Filed: June 27, 1983.

Facility Location: Lemoyne, Pa.

Gas Volume: 30,000 Mcf per year.

Oil Displacement: 202,000 gallons of No. 6 fuel oil (2.8% sulfur).

Eligible Seller: Exxon U.S.A., Houston, Tex.

Transporters: Columbia Gas Transmission Corp., Charleston, W. Va. UGI Corp., Gas Utility Div., Reading, Pa.

2. 83-CERT-235.

Applicant: Calgon Carbon Corp., Pittsburgh, Pa.

Date Filed: June 27, 1983.

Facility Location: Catlettsburg, Ky.

Gas Volume: 1,000,000 Mcf per year.

Oil Displacement: 7,200,000 gallons of No. 2 fuel oil (0.5% sulfur).

Eligible Seller: Exxon U.S.A., Houston, Tex.

Transporters: Columbia Gas Transmission Corp., Houston, Tex.; Columbia Gas Transmission Corp., Charleston, W. Va.; Columbia Gas of Kentucky, Columbus, Ohio.

3. 83-CERT-236.

Applicant: The Goodyear Tire & Rubber Co., Niagara Falls, N.Y.

Date Filed: June 27, 1983.

Facility Location: Niagara Falls, N.Y.

Gas Volume: 730,000 Mcf per year.

Oil Displacement: 4,870,000 gallons of No. 6 fuel oil (1.4% sulfur).

Eligible Seller: Adobe Oil & Gas Corp., Midland, Tex.

Transporters: Columbia Gas Transmission Corp., Charleston, W. Va.; National Fuel Gas Supply Corp., Buffalo, N.Y.; National Fuel Gas Distribution Corp., Buffalo, N.Y.

4. 83-CERT-237.

Applicant: Swift Independent Packing Co., Chicago, Ill.

Date Filed: June 27, 1983.

Facility Location: National Stockyards, Ill.

Gas Volume: 206,270 Mcf per year.

Oil Displacement: 1,600,000 gallons of No. 6 fuel oil (less than 1% sulfur).

Eligible Seller: Delta Resource, Inc., Houston, Tex.

Transporters: Natural Gas Pipeline Co. of America, Houston, Tex.; Columbia Gas Transmission Corp., Charleston, W. Va.; Illinois Power Co., Decatur, Ill.

5. 83-CERT-239.

Applicant: Anchor Hocking Corp., Lancaster, Ohio.

Date Filed: June 28, 1983.

Facility Location: Monaca, Pa.

Gas Volume: 288,000 Mcf per year.

Oil Displacement: 2,160,000 gallons of No. 2 fuel oil (0.5% sulfur).

Eligible Seller: Excalibur Energy Corp., Nashville, Tenn.; Exxon U.S.A., Houston, Tex.; Delta Drilling Co., Tyler, Tex.; Adobe Oil & Gas Co., Midland, Tex.; Victory Development Co., Pittsburgh, Pa.

Transporters: Columbia Gas Transmission Corp., Charleston, W. Va.; Columbia Gas Transmission Corp., Houston, Tex.; Columbia Gas of Pa., Inc., Columbus, Ohio.

6. 83-CERT-240.

Applicant: Virginia Linen Service, Inc., Petersburg, Va.

Date Filed: June 28, 1983.

Facility Location: Petersburg, Va.

Gas Volume: 57,200 Mcf per year.

Oil Displacement: 9,352 barrels of No. 6 fuel oil (2.26% sulfur).

Eligible Seller: Resources Exploration, Inc., Canton, Ohio; Delta Drilling Co., Tyler, Tex.; Viking Resources, Inc., North Canton, Ohio; Rodco Petroleum Inc., Canton, Ohio.

Transporters: Columbia Gas Transmission Corp., Charleston, W. Va.; Commonwealth Gas Distribution, Petersburg, Va.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning any of these applications to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the **Federal Register.** The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of

any of the above applications may be requested by any interested person in writing within the ten-day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the **Federal Register.**

Issued in Washington, D.C., on July 14, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19670 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-164]

Ashland Petroleum Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in this application, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in the application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	Federal Register notice of application
Ashland Petroleum Co., Covington Facility, Covington, Ky.	June 7, 1983	83-CERT-164	48 FR 29574, June 27, 1983.

The ERA has carefully reviewed the above application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted the certification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19863 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-169, as Amended]

Eastern Stainless Steel Co.; Application for Amendment to Existing Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On July 6, 1983, Eastern Stainless Steel Co., Baltimore Md., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 83-CERT-169). The certification was for the eligible use of 1,300,000 Mcf per year of natural gas purchased from Exxon U.S.A., Yankee Resources, Inc., and Target Exploration, Inc., for use by Eastern Stainless Steel Co. at its facility located in Baltimore, Md. The volume of natural gas was estimated to displace the use of approximately 9,538,960 gallons of No. 2 fuel oil (0.3 percent sulfur) per year at the above facility. The transporters were Columbia Gas Transmission Corp. and Baltimore Gas & Electric Co. That certificate will expire July 5, 1984.

On June 24, 1983, Eastern Stainless Steel Co. filed an application for amendment to the existing certification of an eligible use to add Berea Oil & Gas Corp., Bridgeport, W.Va., Graham Resources, Inc., Metairie, La., and Fox Oil & Gas, Inc., McMurray, Pa., as eligible sellers and Panhandle Eastern Pipe Line Co., Houston, Tex., and Natural Gas Pipeline Company of America, Houston, Tex., as transporters, pursuant to 10 CFR 595 (44 FR 47920, August 16, 1979). All other aspects of the July 6, 1983, certification remain unchanged. The application for amendment is on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application for amendment to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application for amendment may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to the applicant and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19867 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

ERA Docket No. 83-CERT-172, as amended]

Genstar Stone Products Co.; Application for Amendment to Existing Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On July 6, 1983, Genstar Stone Products Co., Hunt Valley, Md., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 83-CERT-172). The certification was for the eligible use of 230,000 Mcf per year of natural gas purchased from Exxon U.S.A., Yankee Resources, Inc., and Target Exploration, Inc., for use by Genstar Stone Products Co. at its facilities located in Cockeysville, Md. The volume of natural gas was estimated to displace the use of approximately 1,540,000 gallons of No. 6 fuel oil (1.0 percent sulfur) per year at the above facility. The transporters were Columbia Gas Transmission Corp. and Baltimore Gas & Electric Co. That certification will expire July 5, 1984.

On June 24, 1983, Genstar Stone Products Co. filed an application for amendment to the existing certification of an eligible use to add Berea Oil & Gas Corp., Bridgeport, W. Va., FMF Oil & Gas Properties, Great Falls, Va., Park-Ohio Industries, Inc., Cleveland, Ohio, Fox Oil & Gas, Inc., McMurray, Pa., and Union Drilling Co., Buckhannon, W. Va., as eligible sellers, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). All other aspects of the July 6, 1983, certification remain unchanged. The application for amendment is on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42 Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application for amendment to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application for amendment may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to the applicant and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19869 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-166, as Amended]

Koppers Co., Inc., Piston Ring & Seal Div.; Application for Amendment to Existing Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On July 6, 1983, Koppers Co., Inc., Piston Ring & Seal Div., Baltimore, Md., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 83-CERT-166). The certification was for the eligible use of 76,517 Mcf per year of natural gas purchased from Exxon U.S.A., Yankee Resources, Inc., and Target Exploration, Inc., for use by Koppers Co. at its facility located in Baltimore, Md. The volume of natural gas was estimated to displace the use of approximately 542,765 gallons of No. 6 fuel oil (1.0 percent sulfur) per year at the above facility. The transporters were Columbia Gas Transmission Corp. and Baltimore Gas & Electric Co. That certificate will expire July 5, 1984.

On June 24, 1983, Koppers Co. filed an application for amendment to the existing certification of an eligible use to add Berea Oil & Gas Corp., Bridgeport, W. Va., FMF Oil & Gas Properties, Great Falls, Va., Park-Ohio Industries, Inc., Cleveland, Ohio, Fox Oil & Gas, Inc., McMurray, Pa., and Union Drilling Co., Buckhannon, W. Va., as eligible sellers, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). All other aspects of the July 6, 1983, certification remain unchanged. The application for amendment is on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application for amendment to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application for amendment may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to the applicant and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19865 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-170, as Amended]

Pemco Products, a Division of Mobay Chemical Corp.; Application for Amendment to Existing Certfication of Eligible Use of Natural Gas To Displace Fuel Oil

On July 6, 1983, Pemco Products, Baltimore, Md., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 83-CERT-170). The certification was for the eligible use of 240,000 Mcf per year of natural gas purchased from Exxon U.S.A., Yankee

Resources, Inc., and Target Exploration, Inc., for use by Pemco Products at its facility located in Baltimore, Md. The volume of natural gas was estimated to displace the use of approximately 31,000 barrels of No. 2 fuel oil (0.5 percent sulfur) per year at the above facility. The transporters were Columbia Gas Transmission Corp. and Baltimore Gas & Electric Co. That certificate will expire July 5, 1984.

On June 24, 1983, Pemco Products filed an application for amendment to the existing certification of an eligible use to add Berea Oil & Gas Corp., Bridgeport, W. Va., FMF Oil & Gas Properties, Great Falls, Va., Park-Ohio Industries, Cleveland, Ohio, Fox Oil & Gas, Inc., McMurray, Pa., and Union Drilling Co., Buckhannon, W. Va., as eligible sellers pursuant to 10 CFR 595 (44 FR 47920, August 16, 1979). All other aspects of the July 6, 1983, certification remain unchanged. The application for amendment is on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application for amendment to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application for amendment may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to the applicant and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19868 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-160, as Amended]

Union Carbide Corporation; Application for Amendment to Existing Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On June 30, 1983, Union Carbide Corp., Niagara Falls, N.Y., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 83-CERT-160). The certification was for the eligible use of 663,000 Mcf per year of natural gas purchased from Envirogas, Inc., American Penn Energy, Inc., and Keystone Energy Oil and Gas, Inc., for use by Union Carbide Corp. at its two facilities located in Niagara Falls, N.Y. (Republic location and National location). The volume of natural gas was estimated to displace the use of approximately 3,636,000 gallons of No. 2 fuel oil (0.4 percent sulfur) and approximately 1,146,000 gallons of No. 6 fuel oil (1.0 percent sulfur) per year. The transporters were National Fuel Gas Supply Corp. and National Fuel Gas Distribution Corp. That certificate will expire June 29, 1984.

On July 6, 1983, Union Carbide Corp. filed an application for amendment to the existing certification of an eligible use to add Bounty Oil and Gas Co., Jamestown, N.Y., as an eligible seller and to delete Keystone Energy Oil and Gas, Inc., pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). All other aspects of the June 30, 1983, certification remain unchanged. The application for amendment is on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application for amendment to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application for amendment may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to the applicant and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19864 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-168, as Amended]

W.R. Grace & Co. (Davison Chemical Div.); Application for Amendment to Existing Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On July 1, 1983, W.R. Grace & Co. (Davison Chemical Div.), Baltimore, Md., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 83-CERT-168). The certification was for the eligible use of 1,320,000 Mcf per year of natural gas purchased from Exxon U.S.A., Yankee Resources, Inc., and Target Exploration, Inc., for use by W.R. Grace & Co. at its facility located in Baltimore, Md. The volume of natural gas was estimated to displace the use of approximately 230,000 barrels of No. 2 fuel oil (0.3 percent sulfur) per year at the above facility. The transporters were Columbia Gas Transmission Corp. and Baltimore Gas & Electric Co. That certificate will expire June 30, 1984.

On June 24, 1983, W.R. Grace & Co. filed an application for amendment to the existing certification of an eligible use to add Berea Oil & Gas Corp., Bridgeport, W. Va., FMF Oil & Gas

Properties, Great Falls, Va., Park-Ohio Industries, Inc., Cleveland, Ohio, Fox Oil & Gas, Inc., McMurray, Pa., and Union Drilling Co., Buckhannon, W. Va., as eligible sellers, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). All other aspects of the July 1, 1983, certification remain unchanged. The application for amendment is on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application for amendment to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application for amendment may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to the applicant and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on July 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19866 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by The Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Thursday, June 30, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Thursday, July 7, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden, Control Division, Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252–2308.

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7340.

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–3087.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; as shown in "For Further Information Contact." If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., July 18, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review at OMB

Form No. (1)	Form title (2)	Type request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of Respondents (7)	Annual Respondent Burden (8)	Abstract (9)
EIA-7A	Coal Production Report.	Extension, no change.	Annually	Mandatory	Coal mining operations.	7,000	7,833	Form EIA-7A will collect information on coal production, productivity and stocks. These data are published in the Annual Coal Production Report. Respondents for the EIA-7A are all U.S. coal mining operations. This form is a mandatory reporting requirement under the FEA Act.
FERC-542	Gas Pipeline Rate	Extension, no change.	On occasion	Mandatory	Interstate natural gas pipelines.	60	371,200	Initial rate filings are tariff filings which implement new service proposals, e.g. transportation service, exchange arrangements, storage service, which have received Commission certification authorization through a final order required in NGA SEC 4 (E).

[FR Doc. 83-19891 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrail facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective August 1, 1983. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue SW., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (Btu's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million Btu's
Alabama	3083
Arizona [1]	3.81
Arkansas [1]	3.68
California	3.79
Colorado [2]	3.78
Connecticut [1]	3.99
Delaware [1]	4.07
Florida	3.89
Georgia [1]	3.97
Idaho [2]	3.78
Illinois [1]	3.58
Indiana	3.57
Iowa [1]	3.65
Kansas [1]	3.85
Kentucky [1]	3.58
Louisiana [1]	3.68
Maine [1]	3.99
Maryland [1]	4.07
Massachusetts	3.87
Michigan [1]	3.58
Minnesota	3.84
Mississippi [1]	3.97
Missouri	3.77
Montana [2]	3.78
Nebraska [1]	3.85
Nevada [1]	3.81
New Hampshire [1]	3.99
New Jersey	3.98
New Mexico	3.31
New York [1]	4.07
North Carolina [1]	3.97
North Dakota [1]	3.85
Ohio	3.34
Oklahoma [1]	3.68
Oregon [1]	3.81
Pennsylvania	4.06
Rhode Island [1]	3.99
South Carolina [1]	3.97
South Dakota [1]	3.85
Tennessee [1]	3.97
Texas	3.48
Utah [2]	3.78
Vermont [1]	3.99
Virginia [1]	3.97
Washington [1]	3.81
West Virginia [1]	3.58
Wisconsin [1]	3.58
Wyoming [2]	3.78

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM–79–21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during May 1983 was $33.96 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective August 1, 1983, is $7.61 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of March 1983, April 1983, and May 1983.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective August 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, March 1983, April 1983, and May 1983. Reported prices for sales in March 1983 were adjusted by the percent change in the nationwide volume-weighted average price from March 1983 to May 1983. Prices for April 1983 were similarly adjusted by the percent change in the nationwide volume-weighted average price from April 1983 to May 1983. The volume-weighted 3-month average of the adjusted March 1983 and April 1983, and the reported May 1983 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million Btu's).

There were insufficient sales reported in Region G for the months of March, April, and May 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Log Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending July 15, 1983, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of May 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions ad follows:

Region A

Connecticut	New Hampshire
Maine	Rhode Island
Massachusetts	Vermont

Region B

Delaware	New York
Maryland	Pennsylvania
New Jersey	

Region C

Alabama	North Carolina
Florida	South Carolina
Georgia	Tennessee
Mississippi	Virginia

Region D

Illinois	Ohio
Indiana	West Virginia
Kentucky	Wisconsin
Michigan	

Region E

Iowa	Nebraska
Kansas	North Dakota
Missouri	South Dakota
Minnesota	

Region F

Arkansas	Oklahoma
Louisiana	Texas
New Mexico	

Region G

Colorado	Utah
Idaho	Wyoming
Montana	

Region H

Arizona	Oregon
California	Washington
Nevada	

Issued in Washington, D.C., July 18, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-19994 Filed 7-21-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2402-8]

Availability of Environmental Impact Statements Filed July 11 Through July 15, 1983 Pursuant to 40 CFR Part 1506-9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, (202) 382-5075 or 382-5076.

U.S. Army Corps of Engineers:
- EIS No. 830378, Draft, COE, PAC, Johnston Atoll Chemical Agent Disposal System, Johnston Island, due: Sept. 6, 1983.

Department of the Interior:
- EIS No. 830370, Final, IBR, OR, Galesville Multipurpose Water Resources Project, Douglas County, due: Sept. 22, 1983.
- EIS No. 830382, FSuppl, IBR, ND, Garrison Diversion Unit Initial Development, due: Sept. 22, 1983.
- EIS No. 830377, Final, BLM, CA, McLaughlin Gold Extraction & Milling Project, Permits, Yolo/Lake/Napa, due: Sept. 22, 1983.

Department of Transportation:
- EIS No. 830375, Draft, FHW, PA, Ohio River Blvd. and West End Bridge Interchange Const., Allegheny County, due: Sept. 6, 1983.
- EIS No. 830383, Draft, FHW, CA, Roseville Bypass Construction, I-80 to CA-65, Placer County, due: Sept. 6, 1983.
- EIS No. 830376, Final, FHW, MD, MD-3 Corridor Upgrading, U.S. 50/301 to MD-32, due: Aug. 22, 1983.

Environmental Protection Agency:
- EIS No. 830380, Final, EPA, OK, Tulsa Northside Wastewater Treatment Facilities, Grant Tulsa County, due: Aug. 22, 1983.

Department of Housing and Urban Development:
- EIS No. 830374, Draft, HUD, CA, Terra Vista Planned Community, Mortgage Insurance, San Bernardino County, due: Sept. 6, 1983.

Interstate Commerce Commission:
- EIS No. 830381, Draft, ICC, MT, Tongue River Railroad C/O, Certificate, Custer/Rosebud/Powder R. Counties, due: Sept. 6, 1983.

Nuclear Regulatory Commission:
- EIS No. 830384, Draft, NRC, WI, Point Beach Nuclear Plant, Unit 1, Steam Generator Repair, License, due: Sept. 6, 1983.

Department of Defense, Army:
- EIS No. 830379, Final, USA, VA, Fort Belvoir Ongoing Mission, Fairfax County, due: Aug. 22, 1983.

Department of Agriculture:
- EIS No. 830371, Final, SCS, OR, Juniper Canyon Watershed Flood Control Project, Prineville, Crook County, due: Aug. 22, 1983.
- EIS No. 830373, Final, SCS, CA, Lower Silver Creek Watershed Protection Plan, Santa Clara County, due: Aug. 22, 1983.

Amended Notices:
- EIS No. 830117, Draft, AFS, MT, Flathead National Forest Land and Resource

Management Plan, Published, **Federal Register**, March 4, 1983—Review extended, due: Aug. 10, 1983.

EIS No. 830228, Draft, FHW, GA, Presidential Parkway Construction, I-75 to Blvd., Fulton/DeKalb Counties, Published, **Federal Register**, May 6, 1983—Review extended, due: July 25, 1983.

Dated: July 19, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-19896 Filed 7-21-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51476; T3H-FRL 2403-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of forty-five PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-930, 83-931, 83-932, 83-933, 83-934, 83-935, 83-936, 83-937, 83-938, 83-939—October 5, 1983.

PMN 83-940, 83-941, 83-942, 83-943, 83-944, 83-945, 83-946, 83-947, 83-948, 83-949, 83-950, 83-951, 83-953, 83-954, 83-955, 83-956, 83-957, 83-958, 83-964, 83-965 and 83-966—October 8, 1983.

PMN 83-959, 83-960, 83-961, 83-962 and 83-963—October 9, 1983.

PMN 83-967, 83-968, 83-969, 83-970, 83-971, 83-972, 83-973 and 83-974—October 10, 1983.

PMN 83-975—October 11, 1983.

Written comments by:

PMN 83-930, 83-931, 83-932, 83-933, 83-934, 83-935, 83-936, 83-937, 83-938 and 83-939—September 5, 1983.

PMN 83-940, 83-941, 83-942, 83-943, 83-944, 83-945, 83-946, 83-947, 83-948, 83-949, 83-950, 83-951, 83-953, 83-954, 83-955, 83-956, 83-957, 83-958, 83-964, 83-965 and 83-966—September 8, 1983.

PMN 83-959, 83-960, 83-961, 83-962 and 83-963—September 9, 1983.

PMN 83-967, 83-968, 83-969, 83-970, 83-971, 83-972, 83-973 and 83-974—September 10, 1983.

PMN 83-975—September 11, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51476]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-930

Manufacturer. Confidential.

Chemical. (G) Modified phenol/formaldehyde resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, inhalation and ocular, a total of 12 workers; Disposal: dermal and ocular, a total of 2 workers.

Environmental Release/Disposal. Confidential.

PMN 83-931

Manufacturer. Confidential.

Chemical. (G) Branched polyamidoamine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal, a total of 9 workers, up to 1 hr/da, up to 250 da/yr; Use: dermal, a total of 25 workers, up to 1 hr/da, up to 250 da/yr.

Environmental Release/Disposal. Minimal release is expected. Disposal by industrial waste treatment facility and incineration.

PMN 83-932

Importer. Confidential.

Chemical. (S) Vinylbenzal-2,4-disodium disulfonate/vinyl alcohol copolymer.

Use/Import. (G) Subcoating for commercial use article. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 30 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. Approximately 10 kg/batch released to water with 4 kg/yr to land. Disposal by on-site biological and chemical waste treatment systems and landfill.

PMN 83-933

Manufacturer. Exxon Chemical Americas.

Chemical. (S) Polymer of styrene and sodium styrene sulfonate.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 1 hr/da, up to 32 da/yr.

Environmental Release/Disposal. Confidential.

PMN 83-934

Manufacturer. Confidential.

Chemical. (G) Fatty acid polyamide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 1 hr/da, up to 13 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by publicly owned treatment works (POTW) and biological treatment system.

PMN 83-935

Manufacturer. Confidential.

Chemical. (G) Fatty acid polyamide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 1 hr/da, up to 13 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by POTW and biological treatment system.

PMN 83-936

Manufacturer. Confidential.

Chemical. (G) Alkyl ester of alkenyl succinic acid.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: Negligible degree; Acute dermal: Negligible degree; Irritation: Skin—Moderate, Eye—Minimal.

Exposure. Manufacture: dermal, a total of 6 workers, up to 1 hr/da, up to 4 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83-937

Manufacturer. Confidential.

Chemical. (G) Fatty acid polyamide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: Negligible degree; Acute dermal: Negligible degree; Irritation: Skin—Moderate, Eye—Minimal.

Exposure. Manufacture: dermal, a total of 6 workers, up to 1 hr/da, up to 8–13 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by navigable waterway.

PMN 83-938

Manufacturer. Confidential.

Chemical. (G) A polymer of methacrylic acid derivatives and a substituted alkane.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >5 g/kg; Irritation: Skin—Slight, Eye—Inconsequential.

Exposure. Manufacture: dermal and ocular, a total of 4 workers, up to 8 hrs/da, up to 40 da/yr; Processing: dermal and ocular, up to 2 hrs/da; Use: dermal, ocular and inhalation, up to 4-8 hrs/da.

Environmental Release/Disposal. 1,000 to 10,000 kg/yr released to land. Disposal by incinceration and approved landfill.

PMN 83-939

Manufacturer. Confidential.

Chemical. (S) Oxo-heptyl acetate.

Use/Production. (S) Primarily a surface coating solvent. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 48 workers, up to 1 hr/da, up to 180 da/yr.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 83-940

Manufacturer. PPG Industries, Incorporated.

Chemical. (G) Aromatic carbonate.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 1.1 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Moderate, Eye—Minimal.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-941

Manufacturer. Confidential.

Chemical. (G) Reaction product of hexane, 1-6 diisocyanato and 2-alkeneamide, 2 methyl-N-(substituted methoxy).

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incinceration.

PMN 83-942

Manufacturer. Confidential.

Chemical. (G) Ethylene polymer with mixed alpha olefins.

Use/Production. (S) Film, blow molding and extrusions. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a maximum of 210 workers, up to 40 hrs/wk.

Environmental Release/Disposal. Disposal by reclamation, incineration or landfill.

PMN 83-943

Manufacturer. Confidential.

Chemical. (G) Vinyl aromatic methacrylate polymer.

Use/Production. (S) Interface inert polymer. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a maximum of 50 workers, up to 1 hr/da, up to 200 da/yr.

Environmental Release/Disposal. No release expected. Disposal by on-site treatment facility, incineration and landfill.

PMN 83-944

Manufacturer. Confidential.

Chemical. (G) Cationic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 2–4 g/kg; Acute dermal: 1–2 g/kg; Irritation: Skin—Slight, Eye—Slight.

Exposure. Manufacture: dermal, a total of 7 workers, up to 1 hr/da, up to 200 da/yr.

Environmental Release/Disposal. Release to plant waste water canal.

PMN 83-945

Manufacturer. Confidential.

Chemical. (G) Poly(amide ester).

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight.

Exposure. Manufacture: dermal and inhalation, a total of 20 workers, up to 6 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Release to water. Disposal by incineration.

PMN 83-946

Manufacturer. Confidential.

Chemical. (G) Polyglycol alcohol polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,000–4,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Moderate, Eye—Non-irritating.

Exposure. Manufacture: dermal, up to 8 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. Minimal release expected. Disposal by incineration and landfill.

PMN 83-947

Manufacturer. Confidential.

Chemical. (G) 1-hydrocarbyl pyridinium halide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 320 mg/kg; Acute dermal: ~200 mg/kg; Irradiation: Skin—Corrosive, Eye—Irritant.

Exposure. Manufacture: dermal and inhalation, a maximum of 4 workers, up to 2 hrs/da, up to 3 da/yr; Use: dermal, minimal.

Environmental Release/Disposal. Minimal release expected. Disposal by POTW, incineration or deep well injection.

PMN 83-948

Manufacturer. Confidential.

Chemical. (G) Halogenated aryl alkoxide.

Use/Production. (G) Chemical intermediate. Prod. range: 1,000–300,000 kg/yr..

Toxicity Data. Acute oral: (Mice)—743–1,204 mg/kg, (Rats)—1,743–1,918 mg/kg, Acute dermal: 3,536 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Moderate; Ames Test: Non-mutagenic; Skin sensitiation: Sensitizer; Subchronic/Chronic No Observed Effects Level (NOEL)—8,000 mg/kg, mice; 10,000 mg/kg, dogs; 3,000–5,000 mg/kg, rats; Octanol/Water Partition Coefficient—22,000; Tetratology (NOEL)—75/kg, mice; 200 mg/kg, rats; Reproduction (NOEL)—50 mg/kg, rats; LC_{50} fathead minnow—1.3 mg/L; LC_{50} water flea—0.25 mg/L; LC_{50} bluegill—0.37 mg/L; LC_{50} rainbow trout—0.53 mg/L.

Exposure. Manufacture and use: dermal, a total of 16 workers, less than 4 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-949

Manufacturer. Confidential.

Chemical. (G) Polyglicidyl ethers of hydrocarbon novolac.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg; Irritation: Skin—Not a primary irritant, Eye—Essentially no irritation; Skin sensitization: Negative.

Exposure. Manufacture and use: dermal, a total of 360 workers, up to 6 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration and approved landfill.

PMN 83-950

Manufacturer. Confidential.

Chemical. (G) Carboxylated arylalkene alkadiene copolymer.

Use/Production. (S) Polymer component of industrial adhesive formulation. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, a total of 30 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by wastewater treatment plant and approved landfill.

PMN 83-951

Manufacturer. Confidential.

Chemical. (G) Polypropylene glycol/bisphenol copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture: dermal and inhalation, a total of 340 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill and industrial waste treatment plant.

PMN 83-953

Manufacturer. Confidential.

Chemical. (G) Modified phenol-formaldehyde alkyl ether amine.

Use/Production. (S) Industrial epoxy curing agent. Prod. range: 300,000-500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83-954

Manufacturer. Confidential.

Chemical. (G) Modified styrene—acrylic polymer.

Use/Production. Confidential. Prod. range: 5,000-20,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure expected.

Environmental Release/Disposal. No release expected.

PMN 83-955

Manufacturer. Monsanto Company.

Chemical. (G) Polybutadiene ester acyl caprolactam.

Use/Production. (S) Reaction injection molding. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a maximum of 6 workers, up to 2 hrs/da, up to 200 da/yr; Use: dermal, a maximum of 500 workers, up to ½ hr/da, up to 200 da/yr.

Environmental Release/Disposal. disposal by incineration and approved landfill.

PMN 83-956

Manufacturer. Confidential.

Chemical. (G) Polyallylether polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. No exposure.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83-957

Manufacturer. Confidential.

Chemical. (G) Spiro-[isobenzofuran xanthene].

Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 2 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83-958

Manufacturer. Confidential.

Chemical. (G) Dialkylphenyl substituted amine.

Use/Production. (S) Site-limited captive intermediate used in the manufacture of a minor component for paper coatings. Prod. range: Confidential.

Toxicity Data. Acute oral: < 5 g/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant; LD_{50} and 95% confidence limits—3.20 (2.59-3.95) g/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-959

Manufacturer. Confidential.

Chemical. (G) Cresol—formaldehyde resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-960

Manufacturer. Confidential.

Chemical. (G) Silicone modified polyester resin.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and inhalation.

Environmental Release/Disposal. Confidential. Disposal by incineration and landfill.

PMN 83-961

Manufacturer. GIVAUDAN CORPORATION.

Chemical. (S) 2,2'-dihydroxydiethylamine p-methoxy cinnamate.

Use/Production. (S) Industrial ultraviolent absorber. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Negative, Ames Test: Non-mutagenic; Skin sensitization: Negative.

Exposure. Manufacture and processing: dermal and inhalation, up to 8 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by POTW and incineration.

PMN 83-962

Manufacturer. Confidential.

Chemical. (G) Acrylic unsaturated acid terpolymer.

Use/Production. (G) Dispersive use by commercial employees as part of an article. Prod. range: Confidential.

Toxicity Data. Ames Test: Non-mutagenic.

Exposure. Confidential.

Environmental Release/Desposal. Confidential.

PMN 83-963

Importer. Confidential.

Chemical. (G) Modified dialdehyde starch.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Irritation: Skin—Mild; Human Repeated Insult Patch Test—No sensitization; LC_{50} 48 hr. (Daphnia magna)—540 mg; LC_{50} 96 hr. (Bluegill)—34 mg/1; LC_{50} 48 hr. (Medaka)—2,600 parts per million (ppm); BOD_5—0.08 gms; COD—0.69 gms.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 83-964

Manufacturer. The Dow Chemical Company.

Chemical. (S) Magnesium aluminum hydroxy anion chloride.

Use/Production. Confidential. Prod. range: 1,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by wastewater treatment plant and landfill.

PMN 83-965

Manufacturer. The Dow Chemical Company.

Chemical. (S) Magnesium aluminum hydroxy anion carbonate.

Use/Production. Confidential. Prod. range: 1,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by wastewater treatment plant and landfill.

PMN 83-966

Manufacturer. The Dow Chemical Commpany.

Chemical. (S) Magnesium aluminum hydroxy anion bicarbonate.

Use/Production. Confidential. Prod. range: 1,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by wastewater treatment plant and landfill.

PMN 83-967

Manufacturer. Confidential.

Chemical. (G) Isocyanate terminated ricinoleate prepolymers.

Use/Production. (S) Adhesives, urethane prepolymers, coatings. Prod. range: 1,000-10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 8 hrs/da, up to 20 da/yr; Use: a total of 50 workers, daily.

Environmental Release/Disposal. No release.

PMN 83-968

Manufacturer. Confidential.

Chemical. (G) Isocyanate terminated ricinoleate prepolymers.

Use/Production. (S) Adhesive, urethane prepolymers, coatings. Prod. range: 500-10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 3 workers, up to 8 hrs/da, up to 20 da/yr; Use: a total of 50 workers, daily.

Environmental Release/Disposal. No release.

PMN 83-969

Manufacturer. Sybron Corporation.

Chemical. (G) Terpolymer of alkyl methacrylates and divinyl benzene.

Use/Production. (S) To separate cation and anion resins in mixed bed ion exchange resin systems. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, 1 worker.

Environmental Release/Disposal. Release to air and water. Disposal by biological treatment system and approved landfill.

PMN 83-970

Manufacturer. Confidential.

Chemical. (G) Aromatic aliphatic branched polyester resin.

Use/Production. (G) Open use. Prod. range: 8,074-60,554 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. Disposal by incineration.

PMN 83-971

Manufacturer. Confidential.

Chemical. (G) Alkyl metallic halide.

Use/Production. (G) Industrial intermediate. Prod. range: Confidential.

Topxicity Data. No data submitted.

Exposure. Manufacture and packaging: a total of 5 workers.

Environmental Release/Disposal. Disposal by POTW.

PMN 83-972

Manufacturer. Sun Alert, Incorporated.

Chemical. (S) Methyl fluorene-9-carboxylate.

Use/Production. (S) Intermediate for sun dosimeter. Prod. range: 10-110 kg/yr.

Toxicity Data. No data submitted.

Exposure. Use: dermal, a total of 3 workers, monthly.

Environmental Release/Disposal. No data submitted.

PMN 83-973

Manufacturer. Sun Alert, Incorporated.

Chemical. (S) 9-methyl carboxylate-9-aminophenyl(4-dimethylamino) fluorene.

Use/Production. (S) Intermediate for sun dosimeter. Prod. range: 10-110 kg/yr.

Toxicity Data. No data submitted.

Exposure. Use: dermal, a total of 3 workers, monthly.

Environmental Release/Disposal. No data submitted.

PMN 83-974

Manufacturer. Sun Alert, Incorporated.

Chemical. (S) Methyl 9-bromofluorene-9-carboxylate.

Use/Production. (S) Intermediate for sun dosimeter. Prod. range: 10-110 kg/yr.

Toxicity Data. No data submitted.

Exposure. Use: dermal, a total of 3 workers, monthly.

Environmental Release/Disposal. No data submitted.

PMN 83-975

Manufacturer. W. R. Grace and Company.

Chemical. (G) (Polyurethane from polyhydroxyalkyls and an aromatic diisocyanate).

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: Not considered a class B poison; Irritation: DOT Corrosive Skin Study—Not corrosive; Inhalation: Negative; Skin absorption—Not considered a class B poison.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 10 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. No release. Disposal by approved landfill.

Dated: July 18, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-19880 Filed 7-21-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59128A; TSH-FRL 2403-2]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-57, and TM-83-58, applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: July 13, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore C. Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, D.C. 20460, (202-382-3725)

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-57

Date of Receipt: June 1, 1983.

Notice of Receipt: June 10, 1983 (48 FR 26883).

Applicant: Confidential.

Chemical: Metal Oxide (Generic).

Use: Energy coverter (Generic).

Production Volume: Confidential.

Worker Exposure: Potential exposure will be by the dermal and inhalation routes. At the manufacturing site, a maximum of 2 workers will be potentially exposed for 1 hour/day for 60 days. During processing a maximum of 2 workers will be potentially exposed for 1 hour/day for 6 days.

Test Marketing Period: 3 months.

Commencing on: July 13, 1983.

Risk Assessment: EPA has identified certain health effect concerns for the TME substance. However, under the terms of the application which require the use of gloves, dust masks and protective clothing, there is little potential for exposure. No environmental effect concerns were identified. No releases of the TME substance are anticipated. Therefore, the Agency finds that the test marketing activity will not present an unreasonable risk to health or the environment during test marketing under the conditions specified in the application.

Public Comments: None.

TME 83-58

Date of Receipt: June 1, 1983.

Notice of Receipt: June 10, 1983 (48 FR 26883).

Applicant: Sun Alert Inc.

Chemical: 3'-(p-(dimethylamino)phenyl)Spiro-(flourene-9,4'-oxazolidine)-2',5'dione.

Use: Raw material for sun dosimeter.

Production Volume: 1 kg.

Number of Customers: 200.

Exposure Information: Any potential exposure will be by the inhalation route. Up to 3 workers may be exposed to the new chemical substance for 8 hrs./day during the test marketing production period.

Risk Assessment: There may be a potential for worker exposure during manufacture of the new substance. However, exposure to the new substance is not expected to present any significant risk to health or to the environment. Exposure to the reactants used in the manufacturing process is subject to existing Occupational Safety and Health Administration (OSHA) Threshold Limit Values (TLV). Compliance with these TLV levels is expected to result in no significant exposure to the PMN substance. Once the new substance is manufactured, there will be little or no potential for consumer exposure to the new substance since it will be embedded in plastic. Releases to the environment following disposal will be widely dispersed and are expected to be negligible. This test market exemption is granted, contingent upon adherence to good laboratory practices during manufacture of the new substance and compliance with existing OSHA TLV limits for the reactants used in the manufacturing process.

The Agency finds that the new substance will not present an unreasonable risk to health or the environment during test marketing under the conditions specified in the application.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts a significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: July 13, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-19881 Filed 7-21-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Travel Reimbursement Experiment

AGENCY: Federal Communications Commission.

ACTION: Publishing of quarterly report on Travel Reimbursement Experiment.

SUMMARY: In Public Law 97-259, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of such travel by event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Appropriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. This must be done each quarter until September 30, 1985. In addition, the Federal Communications Commission must publish each quarterly report in the **Federal Register** until September 30, 1985.

DATE: This report is for the period from April 1, 1983 through June 30, 1983.

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

FOR FURTHER INFORMATION CONTACT: Geoffrey Sherman, Office of the Managing Director, (202) 632-6900.

SUPPLEMENTARY INFORMATION: This report for the quarter ending June 30, 1983 is as follows:

Federal Communications Commission Quarterly Report of Travel Reimbursement Experiment for Quarter Ending June 30, 1983, in Accordance With Public Law 97-259

Summary Report

Total Number of Sponsored Events: 14.

Total Number of Sponsoring Organizations: 14.

Total Number of Commissioners/Employees Attending: 31.

Total Amount of Reimbursement:

Transportation	$10,743.93
Room	5,119.00
Board	1,304.85

Other Expenses	400.72
Total	17,568.50

Individual Event Reports

Sponsoring Organization (Name and Address): National Cable Television Association (NCTA), 1724 Massachusetts Avenue, NW., Washington, D.C. 20036.

Date of the Event: June 12–15, 1983.

Description of the Event: To participate in the 32nd Annual NCTA Convention.

Number of Commissioners Attending: 1.

Number and Title of Employees Attending: 1, Chairman Fowler, Office of the Chairman; 1 Chief of Staff, Office of the Chairman; 1, Attorney Adviser, Office of the Chairman; 1, Deputy Bureau Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$910.00
Room	831.25
Board	144.30
Other Expenses	188.94
Total	[1] 2,074.49

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Utilities Telecommunications Council, c/o Keller and Heckman, 1150 17th Street, NW, Suite 1000, Washington, DC 20336.

Date of the Event: June 12–16, 1983.

Description of the Event: To address the Utilities Telecommunications Council's 35th Annual Meeting.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Deputy Chief, PRB, Private Radio Bureau.

Amount of Reimbursement:

Transportation	$266.00
Room	250.00
Board	48.00
Other Expenses	36.00
Total	[1] $600.00

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address: Peoples Mutual Telephone Company, PO Box 367, Gretna, Virginia 24557.

Date of the event: June 5–7, 1983.

Description of the Event: To address the Tri-State Transmission and Communications Improvement Committee in Virginia Beach, Virginia.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1. Supervisory Industry, Economist, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$75.20
Room	75.00
Board	30.00
Other Expenses	
Total	[1] 180.20

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Society of Broadcast Engineers, P.O. Box 50844, Indianapolis, Indiana 46250.

Date of the Event: April 9–12, 1983.

Description of the Event: To address the Society of Broadcast Engineers at their annual convention in Las Vegas.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Supervisory Electronics Engineer, Field Operations Bureau.

Amount of Reimbursement:

Transportation	$599.00
Room	93.81
Board	63.73
Other Expenses	0
Total	[1] 756.54

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Virginia Association of Broadcasters, 301 East Market Street, Charlottesville, Virginia 22901.

Date of the Event: June 23–26, 1983.

Description of the Event: To attend the 1983 Convention of the Virginia Association of Broadcasters in Virginia Beach, Va.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Electronics Engineer, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$78.40
Room	200.00
Board	80.00
Other Expenses	
Total	[1] 358.40

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Mid America Regulatory Conference (MARC), Lucas Office Building, Des Moines, Iowa 50319.

Date of the Event: June 26–29, 1983.

Description of the Event: To participate as a panelist in the MARC Annual Conference.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Attorney, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$400.00
Room	60.00
Board	30.00
Other Expenses	30.00
Total	[1] 520.00

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): National Association of MDS, Service Companies, Inc., 1629 K Street, NW, Suite 520, Washington, DC 20006.

Date of the Event: May 19–20, 1983.

Description of the Event: To attend the Mid-Western regional MDS Conference in Minneapolis, Minnesota.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Supervisory General Attorney, Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$204.00
Room	100.00
Board	50.00
Other Expenses	50.00
Total	[1] 404.00

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Kansas Association of Broadcasters, 724 Kansas Avenue, Topeka, Kansas 66603.

Date of the Event: June 11–12, 1983.

Description of the Event: To attend the Kansas Association of Broadcasters meeting in Lawrence, Kansas.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Deputy Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$104.00
Room	100.00
Board	
Other Expenses	11.00
Total	[1] 215.00

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Missouri Broadcasters Association, 1800 Southwest Blvd., Jefferson City, Mo. 65101.

Date of the Event: June 9–11, 1983.

Description of the Event: To address the Missouri Broadcasters Association meeting in Rock Lane, Missouri.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Deputy Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$189.00
Room	87.50
Board	
Other Expenses	11.00
Total	[1] 287.50

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Alaska Telephone Association, 3201 C Street, Suite 601, Anchorage, Alaska 99503.

Date of the Event: May 21–25, 1983.

Description of the Event: To address the Annual Meeting of the Alaska Telephone Association.

Number of Commissioners Attending: 1.

Number and Title of Employees Attending: 1, Commissioner Sharp, Office of Commissioner Sharp.

Amount of Reimbursement:

Transportation	$1,194.33
Room	122.96
Board	131.79
Other Expenses	25.28
Total	[1] 1,474.36

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponoring Organization (Name and Address): National Public Radio (NPR), 2025 M Street, NW., Washington, D.C. 20036.

Date of the Event: April 18–19, 1983.

Description of the Event: To participate in 1983 Public Radio Conference of NPR in Minneapolis, Minnesota.

Number of Commissioners Attending: 0.

Number and Title of Employees Attending: 1, Chief, Policy and Rules Div., Mass Media Bureau.

Amount of Reimbursement:

Transportation	$272.00
Room	72.80
Board	9.00
Other Expenses	16.50
Total	[1] 370.30

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Federal Communications Bar Association, c/o Friedman, Leeds and Shorenstein, 529 Fifth Avenue, New York, New York 10017.

Date of the Event: May 2, 1983.

Description of the Event: To address the New York Chapter of the Federal Communications Bar Association in New York.

Number of Commissioners Attending: 1.

Number and Title of Employees Attending: 1, Commissioner Sharp, Office of Commissioner Sharp.

Amount of Reimbursement:

Transportation	$130.00
Room	
Board	
Other Expenses	16.00
Total	[1] 146.00

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): National Cable Television Association, 1724 Massachusetts Avenue NW., Washington, DC 20036.

Date of the Event: June 12–15, 1983.

Description of the Event: To participate in the National Cable TV Conference.

Number and Commissioners Attending: 0.

Number of Title of Employees Attending: 1, Deputy Bureau Chief, Mass Media Bureau.

Amount of Reimbursement:

Transportation	$244.00
Room	281.25
Board	
Other Expenses	
Total	[1] 525.25

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): Ohio Telephone Association, 150 East Broad Street, Columbus, Ohio 43215.

Date of the Event: April 17–18, 1983.

Description of the Event: To address the Annual Convention of the Ohio Telephone Association in Columbus, Ohio.

Number of Commissioners Attending: 1.

Number and Title of Employees Attending: 1, Commissioner Sharp, Office of Commissioner Sharp.

Amount of Reimbursement:

Transportation	$208.00
Room	36.68
Board	
Other Expenses	16.00
Total	[1] 260.68

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

Sponsoring Organization (Name and Address): National Association of Broadcasters (NAB), 1771 N Street, NW., Washington, D.C. 20036.

Date of Event: April 8–18, 1983.

Description of the Event: To attend and speak at the NAB conference in Las Vegas.

Number of Commissioners Attending: 4.

Number and Title of Employees Attending: 1, Chairman Fowler; 1, Commissioner Fogarty; 1, Commissioner Rivera; 1, Commissioner Sharp; 1, Chief, Policy and Rules Division, Mass Media Bureau; 1, Electronics Engineer, Mass Media Bureau; 1, Chief, Office of Plans and Policy, Office of Plans and Policy; 1, Supervisory Electronics Engineer, Office of Managing Director; 1, Electronics Engineer, Mass Media Bureau; 1, Attorney Adviser, Mass Media Bureau; 1, Chief, Mass Media Bureau, Mass Media Bureau; 1, Director, Office of Public Affairs, Office of Public Affairs; 1, Chief of Staff, Office of the Chairman; 1, Attorney Adviser, Office of Commissioner Fogarty; 1, Attorney Adviser, Office of the Chairman.

Amount of Reimbursement:

Transportation	$6,114.00
Room	3,089.00
Board	718.03
Other Expenses	
Total	[1] 9,921.03

[1] *Reimbursement Estimated*—travel processing not complete or reimbursement billed, but not received.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-19884 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-727; File No. BPCT-830110KE et al.]

Family Media, Inc., et al.; Hearing

In re applications of Family Media, Inc., Honolulu, Hawaii, MM Docket No. 83-727, File No. BPCT-830110KE; Channel 5 Broadcasting Associates, Honolulu, Hawaii, MM Docket No. 83-728, File No. BPCT-830223KF; Abell Communications Corporation, Honolulu, Hawaii, MM Docket No. 83-729, File No. BPCT-830223KG; Polynesian Services Corporation, Honolulu, Hawaii, MM Docket No. 83-730, File No. BPCT-830223KJ; Ka'ikena Lani TV Corporation, Honolulu, Hawaii, MM Docket No. 83-731, File No. BPCT-830223KK; Media Central, Inc. (KHAI-TV), Honolulu, Hawaii, MM Docket No. 83-732, File No. BMPCT-830223KL; Down To Earth Inc. d.b.a. TV 5 of Honolulu, Honolulu, Hawaii, MM Docket No. 83-733, File No. BPCT-830223KM; Pacific Rim Broadcasting Co. (KPRR-TV), Honolulu, Hawaii, MM Docket No. 83-734, File No. BMPCT-830223KO; Frederick B. Livingston, Honolulu, Hawaii, MM Docket No. 83-735, File No. BPCT-830223KP; Hana Hou Communications Corp., Honolulu, Hawaii, MM Docket No. 83-736, File No. BPCT-830223KR; for construction permit, designating applications for consolidated hearing on stated issues.

Adopted: June 30, 1983.

Released: July 19, 1983.

By the Chief, Mass Media Bureau.

Hearing Designation Order

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 5, Honolulu, Hawaii, and a letter filed by Mid Pacific Television Associates objecting to the application of Family Media, Inc.

2. On February 22, 1983, Mid Pacific Television Associates (Mid Pacific), licensee of KIKU-TV, Channel 13, Honolulu, Hawaii, filed a letter, which we shall treat as an informal objection pursuant to Section 73.3587 of the Commission's Rules. The informal objection, filed against Family Media Inc., states that economic conditions in the Honolulu, Hawaii, market cannot support the operation of another television station. In effect, Mid Pacific is attempting to raise a *Carroll* issue.[1] It has not, however, provided any of the information traditionally required to warrant raising a *Carroll* issue; it has offered only unsupported conclusions. *WLVA, Incorporated (WLVA-TV)* v. *FCC*, 148 U.S. App. D.C. 262, 459 Fed. 2d 1286 (1972). Consequently, the objection will be denied.

3. No determination has been made that the tower heights and locations proposed by any of the applicants, except Pacific Rim Broadcasting Co. (KPRR-TV),[2] would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

4. Section 73.685(a) of the Commission's Rules requires that a VHF television station place a 74 dBu (city grade) contour over its entire principal community. Based on information provided by one of the applicants, the legal boundary of the city of Honolulu includes the entire Island of Oahu. The 1980 U.S. Census Bureau defines the legal boundary of Honolulu as extending to the Eastern tip of Oahu. Depending on which definition has been employed, some of the applicants ahve requested a waiver of Section 73.685. In light of these facts, we are unable to determine the legal boundary of Honolulu. Accordingly, an appropriate issue will be specified.

5. Media Central, Inc. (KHAI-TV) indicates that a grant of its application would be a major environmental action as defined by Section 1.1305 of the Rules. However, KHAI-TV has not submitted a narrative statement as required by Section 1.1311 of the Rules. KHAI-TV will be required to submit a statement in accordance with Section 1.1311 of the Rules to the presiding Administrative Law Judge within 20 days after this Order is released.

6. except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to all of the applicants except Pacific Rim Broadcasting Co. (KPRR-TV), whether the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine:

(a) The legal corporate boundaries of the City of Honolulu, Hawaii;

(b) Whether each of the applicants would encompass the entire city of Honolulu within its predicted city grade contour as required by Section 73.685 of the Commission's Rules and, if not, whether circumstances exist which would warrant a waiver of the rule.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That, the informal objection by Mid Pacific Television Associates against Family Media, Inc. is denied.

9. It is further ordered, That Media Central, Inc. shall submit an environmental narrative statement in accordance with Section 1.1311 of the Commission's Rules to the presiding Administrative Law Judge within 20 days after this Order is released.

10. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

11. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Divisions, Mass Media Bureau.

[FR Doc. 83-19886 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-657, File No. BRCT-830601KJ]

Seven Hills Television Co.; for Renewal of License of Station KTVW-TV, Phoenix, Arizona; Hearing Designation Order

Adopted: June 21, 1983.

Released: July 12, 1983.

By the Chief, Mass Media Bureau.

Order

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the application of The Seven Hills Television Company (Seven Hills), seeking renewal of the license for Station KTVW-TV, Phoenix, Arizona.

2. On May 26, 1983, the Commission designated for hearing the renewal applications for six broadcast stations licensed to Spanish International Communications Corporation (SICC) or to corporations controlled by principals of SICC. *Spanish International Communications Corporation*, FCC 83-263, released June 16, 1983. Among the issues to be explored in that proceeding is whether SICC or its controlled licensees are in violation of the alien ownership proscriptions of Section 310(b) of the Communications Act of 1934, as amended. Since Seven Hills is controlled by principals of SICC, the Commission also concluded that the public interest would be served by prompt institution of a hearing involving

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[1] *Carroll Broadcasting* v. *FCC*, 103 U.S. App. D.C. 346; 250 F.2d 440 (1958).

[2] It has been determined that KPRR-TV's proposal would not constitute an air hazard.

the renewal application for Station KTVW–TV, whose license is due to expire on October 1, 1983. To this end, the Commission authorized the Chief, Mass Media Bureau, to designate for hearing the KTVW–TV renewal upon its filing with the Commission and to consolidate that application with the other SICC renewal applications in the aforenoted proceeding. *Id.* para. 6. On June 1, 1983, the KTVW–TV license renewal application was submitted by Seven Hills, pursuant to Section 73.3539 of the Commission's Rules.

3. Accordingly, It is ordered, That the license renewal application for Station KTVW–TV, Phoenix, Arizona is designated for consolidated hearing with the proceeding in MM Docket Nos. 83–540 through 83–545, pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine whether The Seven Hills Television Company is controlled by aliens or their representatives in violation of Section 310(b) of the Communications Act of 1934, as amended.

(b) To determine whether network agreements between the Spanish International Network and Spanish International Communications Corporation, which permit Spanish International Network to control local commercial advertising rates charged by the Spanish International Communications Corporation's stations, were violative of Section 73.658(h) of the Commission's Rules.

(c) To determine, in light of the evidence adduced under issues (a) and (b), whether The Seven Hills Television Company has the requisite qualifications to be or remain a licensee of the Commission and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. It is further ordered, That within thirty (30) days of the release of this Order, a Bill of Particulars with respect to issues (a) and (b) will be served upon the The Seven Hills Television Company.

5. It is further ordered, That the Mass Media Bureau shall proceed with the initial presentation of evidence with respect to issues (a) and (b), and that the applicant shall have the burden of proof with respect to all issues specified herein.

6. It is further ordered, That to avail itself of the opportunity to be heard, the applicant, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this order.

7. It is further ordered, That the applicant herein, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended and § 73.3594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such Rule and shall advise the Commission thereof as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

[FR Doc. 83-19878 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83–718; File No. BPCT–830119KF et al.]

Skyline Communications Group et al.; Hearing

In re applications of Skyline Communications Group, Green Valley, Arizona, MM Docket No. 83–718, File No. BPCT–830119KF; Green Valley Television, Inc., Green Valley, Arizona, MM Docket No. 83–719, File No. BPCT–830131KE; Alden Communications Corp., Green Valley, Arizona, MM Docket No. 83–720, File No. BPCT–830311KF; Sungilt Corporation, Inc., Green Valley, Arizona, MM Docket No. 83–721, File No. BPCT–830311KN; for construction permit.

Adopted: June 30, 1983.

Released: July 14, 1983.

By the Chief, Mass Media Bureau.

Hearing Designation Order

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 46, Green Valley, Arizona

Skyline Communications Group (Skyline)

2. Skyline requests a waiver of § 73.685(e) of the Commission's Rules which requires a maximum-to-minimum ratio of no more than 15 dB. Skyline proposes a directional antenna with a maximum-to-minimum ratio of 30 dB. Accordingly, an appropriate issue will be specified to determine whether waiver of § 73.685(e) is warranted.

3. There are several discrepancies as to the overall height above ground level of Skyline's proposed tower. The overall height is specified as 158.7 feet in Section V–C, Page 14 and in Section V–G of the application. The vertical sketch in the engineering exhibit indicates a height of 138.7 feet. The applicant will be required, therefore, to submit an appropriate amendment to clarify this discrepancy, including as may be needed, any related information, such as overall height above mean sea level. It should be noted, however, that information on file in the Antenna Survey Branch shows that the Federal Aviation Administration has given its approval for a tower that is 138.7 feet above ground level. Thus, if the applicant does in fact propose an overall height above ground level of 158.7 feet, that proposal has not, as far as our records indicate, been approved by the FAA. For that reason, we have included Skyline in issue 1, the air hazard issue. However, if Skyline's clarifying amendment establishes that the correct height should be 138.7 feet, then Skyline will not be required to make any showing under issue 1.

Green Valley Television, Inc. (Green Valley TV) and Alden Communications Corp. (Alden)

4. Since we have not received a determination from the Federal Aviation Administration that the proposed tower height and location of the applicants [1] would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

5. The effective radiated visual power, antenna height above average terrain and other technical data submitted by Alden indicate that there would be a significant difference in the size of the area and population that it proposes to serve and the size of the areas and populations that the other three applicants propose to serve. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

Sungilt Corporation, Inc. (Sungilt)

6. Section II, Page 2, FCC Form 301, requires that if the applicant is a corporation, the names, addresses and offices held by each officer must be listed. Sungilt's applications shows that Arlene D. Stevenson is the sole officer of the Corporation. The laws of the State of

[1] The Commission is not in receipt of FAA's determination for the tower proposed by Green Valley TV.

Arizona, however, appear to require that a corporation have at least two officers (Arizona Code Ann. Sec. 10-050). Furthermore, § 73.3514(a) of the Commission's Rules requires applicants to provide all information called for by FCC Form 301, unless the required information is inapplicable. Accordingly, appropriate issues will be specified to determine the identity and qualifications of the corporate officers and to examine Sungilt's compliance with § 73.3514(a).

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Skyline, Green Valley TV and Alden, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine with respect to Skyline, whether circumstances exist to warrant a waiver of § 73.685(e) of the Commission's Rules; and if so, whether such waiver would be consistent with the public interest.

3. To determine with respect to Sungilt Corporation, Inc.:

a. The number, identity and legal qualifications of the officers of Sungilt Corporation, Inc.

b. Whether, in light of the evidence adduced pursuant to the foregoing issue, the applicant complied with § 73.3514(a) of the Commission's Rules; and

c. In light of the evidence adduced pursuant to the foregoing issues, the effect of any omissions on the applicant's basic or comparative qualifications.

4. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. It is further ordered, That, to avail themselves of the opportuntiy to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner precribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-19685 Filed 7-21-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Union Trust Bancorp et al.

The organizations identified 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 these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment 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.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing 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.

A. **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 activities; Tennessee): To engage through its subsidiary, Landmark Financial Services of Tennessee, 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 mortgage loans secured in whole or in part by mortgages or other liens in real estate. The proposed insurance activities are permissible pursuant to sections 601 (A) and (D) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Knoxville, Tennessee, serving Knoxville and the surrounding area. Comments on this application must be received not later than August 17, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation*, Milwaukee, Wisconsin (mortage lending and credit related insurance activities; Wisconsin): To engage, through its subsidiary, RE Services, Inc., in making and acquiring,for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; and acting as agent for the sale of credit life and accident and health insurance directly related to its extensions of credit. These activities would be

conducted from an office of its said subsidiary located in Madison, Wisconsin, serving the State of Wisconsin. Comments on this application must be received not later than August 17, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; South Dakota): To continue to engage, through its two indirect subsidiaries, FinanceAmerica of Moorhead Inc., a Minnesota corporation and FinanceAmerica Corporation, a Wyoming corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. The aforementioned types of credit-related insurance are permissible under Section 4(c)(8)(A) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982. Credit-related property insurance will not be offered. Such activities will include, but not be limited to, making consumer installment loans and loans to businesses, purchasing installment sales finance contracts, making loans and other extensions of credit secured by real and personal property, and offering credit-related life and credit-related accident and health insurance. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of each of the above-named subsidiaries. These activities will be conducted from existing offices of FinanceAmerica of Moorhead Inc. and FinanceAmerica Corporation located in Moorhead, Minnesota and Cheyenne, Wyoming; each office serving the additional State of South Dakota. Comments on this application must be received not later than August 18, 1983.

Board of Governors of the Federal Reserve System, July 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19690 Filed 7-21-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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 July 15.

Public Health Service

Health Resources and Services Administration

Subject: Analysis of the Current Level of Resources Used in Geriatric Dental Education—New
Respondents: Dental schools
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Evaluation of National Institutes of Health Consensus Development Program—New
Respondents: Physicians and hospitals
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Statement of Investigator (Clinical Pharmacology) (0915–0015—EXTENSION/NO CHANGE
Respondents: Drug manufacturers and physicians
Subject: Statement of Investigator (0910–0013)—EXTENSION/NO CHANGE
Respondents: Drug manufacturers
OMB Desk Officer: Richard Eisinger

Office of the Assistant Secretary for Health

Subject: Evaluation of the NCHS Population-Based Surveys (Contact Person)—New
Respondents: Individuals
OMB Desk Office: Fay S. Iudicello

Health Care Financing Administration

Subject: Hospital Providers of Long Term Care—Swing Bed Provision (HCFA-345)—EXTENSION/NO CHANGE
Respondents: State Medicaid Agencies
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: OCSE Financial Status Report (0960–0235) — REVISION
Respondents: State Offices of Child Support Enforecement
Subject: 1984 SSI Survey—Concept Review and Questionnaire Pretest (SSA-560)—New
Respondents: Individuals or households
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 comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503

Attn: (name of OMB Desk Officer)

Dated: July 15, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-19715 Filed 7-21-83; 8:45 am]

BILLING CODE 4150-04-M

Social Security Benefit Increases; Cost-of-Living Increase in Benefits Under Titles II and XVI of the Social Security Act and Income Limitations for Beneficiaries Under the Supplemental Security Income Program

Correction

In FR Doc. 83–15740 beginning on page 27150 in the issue of Monday, June 13, 1983 make the following corrections:

1. On page 27150, column three, paragraph two, line fourteen, "montly" should read "monthly".

2. On page 27151, Table 1, column V, line thirteen, "354.50" should read "352.50".

3. On page 25151, Table 1, columns I, II, III, IV, and V lines thirty-two and thirty-three beginning with figures 33.21 and 32.61 were reversed and should be inverted.

4. On page 27152, Table 1, column II, line twelve, "646.30" should read "464.30".

5. On page 27152, Table 1, column III, "But not more than-," line fifty-two, "534" should read "543".

6. On page 27155, Table 1, column IV, line twenty-eight, "1212.80" should read "1121.80".

7. On page 27156, Table 1, column IV line thirty-two, "1245.70" should read "1251.70".

8. On page 27156, Table 1, column V, line thirty-two, "2290.50" should read "2190.50".

9. On page 27156, Table 1, column V, line thirty-four, "2295.50" should read "2195.50".

10. On page 27157, Table 1, column II, line eight, "12282.70" should read "1282.70".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14851-A through F-14851-H, F-14851-L, F-14851-B2]

Alaska Native Claims Selection; Village of Deering

The purpose of this decision is to modify the Decision to Issue Conveyance (DIC) dated August 26, 1982, and published in the **Federal Register** on August 26, 1982, pages 37696 through 37699. The DIC included a final determination as to easements and navigability as recommended in the Alaska State Director (SD), BLM, memorandum dated March 25, 1982, for the village of Deering.

On October 12, 1982, an amendment to the SD memorandum of March 25, 1982, was issued which identified an additional easement to be reserved. Therefore, the DIC, dated August 26, 1982, is modified to include the following:

Page 37698:
Add the following easement:

i. (EIN 10 C5) An easement fifty (50) feet in width for an existing access trail from Federal Aid Secondary Route No. 1510 in the NW¼, Sec. 34, T. 6 N., R. 21 W., Kateel River Meridian, southerly, generally paralleling the Pinnell River to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement. Large all-terrain vehicles (greater than 3,000 lbs. Gross Vehicle Weight), track vehicles, and four-wheel drive vehicles will be limited to winter use only.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this modified 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 constitute 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, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, 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, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until August 22, 1983 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 Land and Water Management, Pouch 7-005, Anchorage, Alaska 99510

NANA Regional Corporation, Inc., Successor in Interest to Deering Ipnatchiak Corporation, P.O. Box 49, Kotzebue, Alaska 99752.

Except as modified by this decision, the decision of August 26, 1982, stand as written.

Steven L. Willis

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-19854 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-84-M

[U-52341]

Emergency Coal Lease; Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that at 1:30 p.m. MDT August 12, 1983, certain coal resources in the lands hereinafter described in Carbon County, Utah will be offered for competitive lease by sealed bid of $100 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended. *However, no bid will be accepted for less than fair market value as determined by the authorized officer.*

The sale will be held in the 13th Floor Conference Room of the University Club Building at 1:30 p.m. MDT August 12, 1983. At that time, the sealed bids will be opened and read. No bids received after 1:00 p.m. MDT, August 12, 1983, will be considered.

Coal Offered: The coal reserves to be offered consists of all seams available for underground mining in the following described land located approximately eight miles east of Helper, Utah:

T. 13 S., R. 11 E., SLM, Utah
Sec. 9, E½SW¼, SW¼SE¼.
Containing 120.00 acres.

The estimated total recoverable underground reserves are 700,000 tons. The coal quality is as follows: Btu—12,593 per lb.; Sulfur—approximately .63 percent and Ash—approximately 5.42 percent.

The coal is located in two seams, the Lower Sunnyside and the Gilson and is expected to average 4.2 and 7.2 feet thick respectively.

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Utah State Office,

University Club Building, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 1400, University Club Building.

W. R. Papworth,

Deputy State Director, Operations

[FR Doc. 83-19849 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 731]

Filing of Plat of Survey; California

June 28, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian

T. 9 S., R. 34 E.

2. This plat, representing the dependent resurvey of a portion of the Second Standard Parallel South, in Tps. 8 S., Rs. 33 and 34 E., and portions of the west boundary and subdivisional lines, and the subdivision of sections 17, 19, and 20, and the survey of a portion of the boundary of an unconstructed road in section 17, to identify the Big Pine Indian Reservation boundary in T. 9 S., R. 34 E., Mount Diablo Meridian, under Group No. 731, California, was accepted June 2, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs and this Bureau.

All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

June 28, 1983.

[FR Doc. 83-19850 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 83-30]

Availability of Final Environmental Impact Statement; Homestake Mining Company's McLaughlin Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) and 43 CFR 3809, the Bureau of Land Management has had a final environmental impact statement prepared for Homestake Mining Company's McLaughlin Project, near Knoxville, California. This statement was prepared by Engineering-Science of Berkeley, California, and also satisfies the requirements of the California Environmental Quality Act (CEQA) as an Environmental Impact Report. Napa County is the Lead Agency for CEQA; Lake and Yolo counties are Responsible Agencies. Alternatives discussed in detail include the proposed plan of operation, no action, an alternative water supply reservoir, and alternative mill sites.

DATES: The decision will not be made for at least thirty days from publication of this notice in the **Federal Register.** Comments on the final environmental impact statement are being solicited from public agencies and interested individuals and organizations. Comments should be submitted by August 22, 1983, to the District Manager, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482.

ADDRESSES: A limited number of copies of the statement are available at the Ukiah District Office, or by contacting James Goodfellow, Project Coordinator, 1195 Third Street, Room 210, California 94558. Telephone (707) 253-4416. Copies are available for review at public libraries in Lake, Napa, and Yolo counties.

FOR FURTHER INFORMATION CONTACT: Timothy P. Julius, Planning and Environmental Coordinator, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482, Telephone (707) 462-3873.

Dated: July 13, 1983.

Edwin G. Katlas,

Associate District Manager.

[FR Doc. 83-19779 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-84-M

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet August 25–27, 1983, at the Copper King Inn, 4655 Harrison Avenue South, Butte, Montana. The meeting hours will be 7:45 a.m. to 5:00 p.m. on Thursday, the 25th, and 8:00 a.m. to 12:00 noon on Saturday, the 27th. On Friday, August 26, Council members will participate in a field tour highlighting renewable resource management of the public lands. The proposed agenda for the meeting is:

Thursday, August 25: Morning: Discussion of old and new Council business, including report on previous Council resolutions and setting of dates and locations for future Council meetings; presentation on public lands issues in Montana; Renewable Resource/Experimental Stewardship panel discussion; and Recreation Use panel discussion.

Afternoon: Public statement period; address by Montana Governor Ted Schwinden, providing the State's perspective on Federal land policies; update on wilderness issues; and meeting of Council subcommittees (Energy and Minerals, Renewable Resources, Lands, Administrative/Regulatory, and Legislative).

Saturday, August 27: Morning: Meeting of Council subcommittees; report of subcommittee recommendations to full Council; and passing of Council resolutions.

All meetings of the Council will be open to the public. Opportunity will be provided for members of the public to make oral statements to the Council, beginning at 1:00 p.m., Thursday, August 25. Oral comments will be limited to 10 minutes per person and should address specific national public lands issues on the meeting agenda. Speakers are encouraged to submit a copy of their written testimony prior to oral delivery so that the Council will be prepared to respond or answer questions. Please send written comments by August 15 to BLM's Montana State Office at the address listed below:

Because of transportation and other logistical limitations, the field tour on August 26 will belimited to Council and panel members and accompanying government representatives.

DATES: August 25 and 27, 1983—Council Meeting. August 25—Public Statements.

ADDRESS: Copies of public statements should be mailed by August 15 to: Montana State Office (912), Bureau of Land Management, Granite Tower, 222

N. 32nd Street, P.O. Box 30157, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Wasington, D.C. Office, BLM, Telephone (202) 343-2054; or Dave Vickery, Public Affairs Specialist, Montana State Office, BLM, telephone (406) 657-6581.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, regarding policies and programs of a national scope related to public lands and resources under the jurisdiction of the Bureau.

Dated: July 15, 1983.

Robert F. Burford,

Director.

[FR Doc. 83-19838 Filed 7-21-83; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b):

1. Parent corporation and address of principal office: Farmers and Feeders, Inc., 340 West 8th Street, West Fargo, ND 58078.

2. Wholly owned subsidiary which will participate in the operations, and State of incorporation: Fargo Box Company—a North Dakota corporation, Box 802, West Fargo, ND 58078.

1. Parent corporation and address of principal office: Luling Oil and Gas Company, Inc., 8622 Crownhill Boulevard, San Antonio, Texas 78209.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Rockport Yacht & Supply Co., Inc., A Texas Corporation, 308 Water Street, P.O. Box 662, Rockport, Texas 78382.

(ii) RYSCO Shipyard, Inc., A Florida Corporation, P.O. Box 578, Blountstown, Florida 32424.

(iii) Lone Star Beer, Inc. of Corpus Christi, A Texas Corporation, 8622 Crownhill Boulevard, San Antonio, Texas 78209.

1. Parent corporation and address of principal office: Mack Industries, Inc., 201 Columbia Road, Valley City, Ohio 44280. Incorporated in the State of Ohio.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporations:

[1] Ohio Flow-A-Matic, Inc., incorporated in the State of Ohio.

[2] Flow-A-Matic, Corporation, incorporated in the State of Florida.

1. Parent corporation and address of principal office: Stone Container Corporation, 360 North Michigan Avenue, Chicago, Illinois 60601.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: Orangeburg Trucking Company, Inc., Post Office Drawer 1164, Orangeburg, South Carolina 29115, incorporated in the State of South Carolina.

1. Parent corporation and address of principal office: Stonecutter Mills Corporation, Spindale, North Carolina, 28160.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Henson Timber Products Corporation, Duke Street, Forest City, North Carolina 28043. State of incorporation: North Carolina.

(b) Mitchell Company, Spindale, North Carolina 28160. State of incorporation: North Carolina.

(c) Rutherford Warehouse Company, Spindale, North Carolina 28160. State of incorporation: North Carolina.

(d) Leid Corporation, P.O. Box 157, Spindale, North Carolina 28160. State of incorporation: North Carolina.

(e) Stonecutter Trucking Company, Incorporated, Spindale, North Carolina 28160. State of incorporation: North Carolina.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19861 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275-5223

Volume No. OP3-FC-336

MC-FC-81546. By decision of July 14, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Parker, Fortier, and Krock approved the transfer to E. C. HARRIS, d.b.a. HILL COUNTRY LEASING, of Fort Worth, TX, of Certificate No. MC 145935 (Sub-No. 4F), issued April 22, 1981, (Sub-No. 10), issued August 17, 1981, (Sub-No. 11), issued April 7, 1982, (Sub-No. 12), issued July 20, 1982, and (Sub-No. 13), issued March 16, 1983, and Permit No. MC 145935 (Sub-No. 9), issued April 22, 1981, to ALL STATES TRANSPORTATION INC., of Fort Worth, TX, authorizing the transportation of (1) *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company, at or near Clovis, NM, Guymon, OK, and Cactus, TX, to points in AL, GA, FL, TN, NC, SC, NY, NJ, PA, ME, MD, MA, NH, DE, RI, CT, VA, VT, WV, MS, AR, LA and DC, restricted to the transportation of traffic

originating at the named facilities and destined to the named destinations, (2) *general commodities* (except classes A and B explosives), between the facilities of Dayco Corporation and its divisions and subsidiaries located at points in the U.S., on the one hand, and, on the other, points in the U.S., (3) *meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plant site of Missouri Beef Packers, Inc., at Plainview, TX, to points in CT, FL, GA, ME, MD, MA, NJ, NY, NC, PA, RI, SC, VT, and VA, (4) *insulators and parts and wiring*, between Washington County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (5) *food and related products*, between points in the U.S. (except AK and HI), and (6) *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company of Chicago, IL. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112, (817) 457-0804.

Please Direct Status Inquiries About the Following to Team 4 at (202) 275-7669

Volume No. OP4-FC-455

No. MC-FC-81595. By decision of July 14, 1983 issued under U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Krock, Carleton, and Dowell, approved the transfer to Rocky Mountain Home Transportation, Inc., of Loveland, CO, of Certificate No. MC-150707, issued September 16, 1981 to Casper Mobile Home Sales, Inc., of Loveland, CO, authorizing transportation of mobile homes, factory built housing, and sections, mounted on wheeled undercarriages or readily adaptable to being mounted on wheeled undercarriages, (1) between points in CO, NE, WY, and (2) between points in CO, NE, and WY, on the one hand, and, on the other, points in Faribault County, MN and points in AZ, KS, MT, NM, NV, OK, ID, SD, TX, and UT. An application for temporary authority has been filed. Representative: Richard J. Bara, World Wide Plaza, Suite 315, 1155 Sherman St. Denver, Co. 80203, (303) 831-7272.

[FR Doc. 83-19660 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Motor Carriers; Lease and Interchange of Vehicles

Decided: July 15, 1983.

Anchor Motor Freight, Inc. (MC-808), Automobile Carriers, Inc. (MC-113436), C&J Commercial Driveaway, Inc. (MC-10345), and Motorcar Transport Co. (MC-60470), petition for waiver of Subpart B, § 1057.11 (except (b)), and § 1057.12 of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057).

We Find:

Petitioners are all regulated carriers under the authorized common control of Leaseway Transportation Corp. (Dockets MC-F-8771 and MC-F-14978). The operations of the petitioners are closely supervised by staff personnel of Leaseway with respect to federal and state safety requirements. A common program of driver training is a part of their comprehensive safety program.

The petition indicates that the carriers are seeking waivers of specific regulations which they believe to be burdensome and restrictive in the frequent exchange of vehicles between themselves. The petition clearly indicates that this exchange is of a trip-lease nature, saying in the pertinent part:

> Petitioners must frequently augment their equipment by lease and interchange with each other. Such leasing insures that equipment is quickly available to meet a shipper's service needs. It also cuts down on unnecessary and uneconomical empty mileage operations.

Since the vehicle leasing being conducted is between regulated carriers, the governing regulations are those of 49 CFR Part 1057, Subpart C, § 1057.22. The applicability of this section is clearly indicated by the Commission in Ex Parte No. MC-168, served February 4, 1983, at page 6 of the decision, which says:

> The trip-lease exemption (49 CFR 1057.22) permits authorized carriers to reposition their equipment in a financially productive manner, in accord with the conditions set forth therein . . . .

The decision further points out, at page 7, that the general leasing requirements of §§ 1057.11 and 1057.12 apply only to the leases between carriers and owner-operators, saying:

> . . . our research has not revealed, conditions that exist in carrier/carrier relationships which are similar to those that chronically exist in carrier/owner-operator relationships . . . . That dissimilarity is essentially why the protections for owner-operators appear in a carrier/owner-operators rule (general leasing requirements) rather than a carrier/carrier rule (trip-lease exemption).

There has been some confusion in regard to 49 CFR Part 1057 which has led various petitioners to seek waiver of §§ 1057.11 and 1057.12 although they are not applicable to the exchange of equipment between regulated carriers. For this reason, rather than deny this petition as improper, we have accepted it as seeking waiver of those conditions in the appropriate regulations which petitioners have indicated are burdensome to the exchange of equipment between the commonly controlled companies. Should our interpretation of their need for relief from § 1057.22 be inaccurate or inappropriate we invite petitioners to seek further relief.

We further find that a denial of the requested relief, as modified, would offer no more protection to the public and would prevent greater efficiency, fuel economy, and costs savings.

It is Ordered:

1. The petition of Anchor Motor Freight, Inc. (MC-808), Automobile Carriers, Inc. (MC-113436), C&J Commercial Driveaway, Inc. (MC-10345), and Motorcar Transport Co. (MC-60470) for waiver of Subpart B, Section 1057.11 (except (b)), and Section 1057.12 of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) is denied as filed.

2. Waivers are granted, however, to the following conditional provisions of 49 CFR Part 1057, Subpart C, § 1057.22, as determined by the Board to be those appropriate to the needs of the petitioners: § 1057.22(a) equipment identification, and (d) limited directional return of equipment.

3. All provisions of § 1057.22, other than that waived above, will be applicable to the exchange of equipment among the petitioners, as long as they remain regulated carriers under common control.

4. Contractual relationships between owner-operators and the individual carriers will be governed by the complete leasing regulations of 49 CFR Part 1057, Subpart B, §§ 1057.11 and 1057.12.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19657 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR 1165. Part 1165 was published in the Federal Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP-2-317

Decided July 14, 1983.

By the Commission, Review Board Members Williams, Dowell, and Carleton.

MC 126622 (Sub-11X(C) and Sub-11X(P)), filed June 27, 1983. Applicant: AUDET & MEGANTIC TRANSPORT, LTEE., 3654 Lemieux, Lac Megantic, Quebec, Canada G6B 1S7. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742-3530. Sub 10 Certificate: (A)(1) broaden the commodity descriptions from (a) hardwood squares to "lumber and wood products"; (b) lumber and cedar products to "lumber and wood products"; (c) sleds, sleighs, children's wagons and parts thereof, children's shovels, wooden benches, wooden chairs, wooden stools, and wooden tables to "transportation equipment, metal products, and furniture and fixtues"; (d) steel bar joists and steel trusses to "metal products"; (e) bricks to "clay, concrete, glass, or stone products"; (f) rough lumber to "lumber and wood products"; (g) snowmobiles and snowmobile parts and returned shipments of snowmobiles and snowmobile parts to "transportation equipment"; (h) switches and cables to "metal products and machinery"; (i) springs to "metal products"; (k) plastic film and sheeting and plastic articles to "rubber and plastic products"; (l) plastic granules to "rubber and plastic products"; and (m) methyl methacrylate monomer to "chemcials and related products"; (2) removing territorial ports of entry restrictions; (3) removing origin and destination territorial restrictions; (4) expanding one-way authority to radial authority; (5) expanding the points of Auburn and Pottstown, PA, Mooresville, NC, and Washington and Belle, WV, to County-wide authority of Schuylkill and Montgomery Counties, PA, Iredell County, NC, and Wood and Kanawah Counties, WV; (6) removing "in bulk" restrictions where they appear; and (B) Subs 2 and 4 Permits: (1) broaden the commodity descriptions from wood chips and lomber to "lumber and wood products"; and granite to "clay, concrete, glass, or stone products"; (2) removing territorial ports of entry restrictions; (3) removing origin and destination territorial restrictions; (4) expanding the territorial authority to "between points in the U.S." under continuing contract(s) with named shippers; and (5) removing "in bulk" restrictions where they appear.

Please direct Status inquiries about the following to Team 4 at (202) 275-7669.

Volume No. OP4-454

Decided: July 14, 1983.

By the Commission, Review Board Members Parker, Krock, and Williams.

MC 110287 (Sub-8)X, filed July 5, 1983. Applicant:SARLO TRUCKING SERVICE, INC., 820 Jersey Ave., Gloucester City, NJ 08030. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561-1031. Lead and Subs 5 and 6F certificates and gateway elimination notice Sub-No. E1: (1) broaden Lead (a) from household goods as defined by the Commission to "household goods and furniture and fixtures", (b) from lumber, millwork, cement, plumbing supplies, building materials, roofing materials and equipment including contractors' tools and outfits, roofers' kettles, asphalt, pitch, and house wreckers' salvage including used plumbing supplies to "lumber and wood products, clay, concrete, glass or stone products, metal products, building materials, machinery, and petroleum, natural gas and their products", and (c) from waste paper from recycling to "waste or scrap materials; (2) broaden Sub 5 from waste paper to "waste or scrap materials", (3) broaden Sub-No. E1 from roofing materials to "building materials", (4) change one-way to radial authority in the Lead and Sub 5; (5) replace city-wide authority in Subs 5 and 6F with county-wide authority: Gloucester City, NJ to "Camden County, NJ"; and (6) remove bulk restriction and materials used in the manufacture of building materials in Sub 6F.

[FR Doc. 83-19859 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1. (202) 275–7030.

Volume No. OP–1–288(F)

Decided: July 14, 1983.

By the Commission, Review Board Members Williams, Dowell, and Carleton.

MC 146630 (Sub-6), filed July 1, 1983. Applicant: SAWDUST SIERRA, INC., 2996 Timber Lane, Verona, WI 53593.Representative: Richard A. Westley, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169001, filed June 30, 1983. Applicant: JOHN H. COENEN, d.b.a. COENEN TRANSPORT, Box W–193, De Pere, WI 54115.Representative: John H. Coenen (same adress as applicant), (414) 498–3079.Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169011(B), filed June 16, 1983. Applicant: EUGENE M. HOOPS, d.b.a. ROADRUNNER BUS LINE, N. 1126 Wildrose Lane, Post Falls, ID 83854.Representative: Eugene M. Hoops (same address as applicant), (208) 773–3150. Transporting *passengers,* in charter and special operations, between points in MT, ID, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation. Applicant has also filed for authority under the non-fitness procedures docketed MC–169011(A), published in this same **Federal Register** issue.

MC 169031, filed July 5, 1983. Applicant: EMERSON FREIGHT BROKERS, INC., 10 Moulton Dr., Montvale, NJ 07645.Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. As a *broker of general commodities* (except household goods), between points in the U.S.

Please direct status inquiries to Team 2, (202) 275–7030

Volume No. OP–2–314

Decided: July 14, 1983.

By the Commission, Review Board Members Joyce, Carleton, and Parker.

MC 168782 (correction), filed June 20, 1983, published in the **Federal Register** issue of July 7, 1983, and republished, as corrected, this issue. Applicant: ERIE AIRPORT LIMOUSINE SERVICE, INC., Erie Hilton Hotel, P.O. Box 4073, 16 W. 10th St., Erie, PA 16512. Representative: Glendon Eugene Rice, Sr. (same address as applicant), (814) 453–7587. Transporting *passengers,* in charter and special operations, beginning and ending at points in PA, NY, and OH, and extending to points in the U.S. (except HI).

Notes.—Applicant seeks to provide privately-funded charter and special transportation.

The purpose of this republication is to correct the territorial description.

MC 169002, filed June 30, 1983. Applicant: ALBERT R. JOHNSON, d.b.a. COUNTRY PRIDE CHARTER, 803 Truro Court, Waldorf, MD 20601. Representative: Albert R. Johnson (same address as applicant), 301–645–4872. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169013, filed June 30, 1983. Applicant: FRANK HEATH AND DARRELL HAMILTON, d.b.a. H&H ENTERPRISES, 7321 E. 96th St., Puyallup, WA 98371. Representative: Kenneth R. Mitchell, 2320–A Milwaukee Way, Tacoma, WA 98421, 206–383–3998. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169023, filed July 5, 1983. Applicant: HANS HEINRICH GLOS, d.b.a. GLOS TRUCKING, INC., 8170 S.W. Norwood Rd., Tualatin, OR 97062. Representative: Hans Heinrich Glos (same address as applicant), 503–638–6073. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169033, filed July 1, 1983. Applicant: MEINDERS TRANSPORTATION COORDINATORS, INC., 4526 N.E. 3rd St., Fridley, MN 55421. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, 612–927–8855. As a broker of *general commodities* (except household goods), between points in the U.S. (except HI).

Volume No. Op–2–320

Decided: July 15, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Parker.

MC 160192 (Sub-2), filed July 5, 1983. Applicant: DAN TERRELL TRUCKING

INC., 451 Tidewater Rd., Mooresville, IN 46158. Representative: Robert B. Hebert, 1600 One Indiana Sq., Suite 1600, Indianapolis, IN 46204, (317) 632-6262. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 168752, filed July 5, 1983. Applicant: STARLINE TOURS, INC., 241 Second St., P.O. Box 831, Paintsville, KY 41240. Representative: Charles K. Belhasen (same address as applicant), (606) 789-6939. Transporting *passengers*, in charter and special operations, beginning and ending at points in KY and WV, and extending to points in U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transporation.

MC 168942, filed June 27, 1983. Applicant: COMMUTER COMFORT CORPORATION, Star Route, Box 110, Locust Grove, VA 22508. Representative: Douglas L. Miller (same address as applicant), (703) 972-7596 or (301) 353-3767. Transporting (1) *passengers*, in charter and special operations, between points in the U.S. (except AK and HI), and (2) *passengers*, over regular routes, (a) between Parker and Wilderness Corner, VA; from VA Hwy 621 to junction VA Hwy 613, then over VA Hwy 613 to junction VA Hwy 3, and return over the same routes, and (b) between Lake of the Woods, VA, and Washington, DC, from VA Hwy 3 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Washington, DC, and return over the same routes, serving all intermediate points in (a) and (b) above.

Notes.—(A) Under Part (1) above, applicant seeks to provide privately-funded charter and special transporation; (B) Under Part (2) above, applicant seeks to provide regular-route service only in interstate or foreign commerce; (C) Part (1) above is published in the Federal Register, this issue, under the preface with the "fitness-only" applications; and (D) Part (2) above is published in the Federal Register, this issue, under the preface with the "regular" applications.

MC 169032, filed July 5, 1983. Applicant: DUTTON BUS CO., INC., P.O. Box 329, Conowingo Rd., Belair, MD 21014 Representative: Richard L. Dutton (same address as applicant), (301) 679-8387. Transporting *passengers*, in charter and special operations, between points in Harford County, MD, on the one hand, and, on the other, points in DE, OH, PA, VA, WV, NJ, NY, NC, SC, TN, and DC. NOTE: Applicant seeks to provide privately funded charter and special transportation.

MC 169072, filed July 6, 1983. Applicant: LOUIS MACHA, d.b.a. SPECIALIZED TRANSPORTATION SERVICE, 9748 S. Roberts Rd., Palos Hills, IL 60465. Representative: Louis Macha, 9835 S. Harlem Ave., Chicago Ridge, IL 60415, (312) 424-0254 As a *broker of general commodities* (Except household goods), between points in the U.S. (except AK and HI).

MC 169093, filed July 8, 1983. Applicant: EARL RAY PI-GHEE, d.b.a. E & D TRUCKING, 1704 7th St., Berkely, CA 94602. Representative: Eldon M. Johnson 650 California St., Suite 2808, San Francisco, CA 94108, 415-986-8696. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *used household goods*, for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), and (3) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169103, filed July 7, 1983. Applicant: MURPHY BUS SERVICE, INC., 555 Rte. 35, Red Bank, NJ 07701. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413-781-8205. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note:—Applicant seeks to provide privately funded charter and special transportation.

Please direct status inquiries about the following to Team Three (3) at (202) 275-5223

Volume No. OP3-330

Decided: July 15, 1983.

By the Commission, Review Board Members Parker, Williams, and Dowell.

MC 168924, filed June 27, 1983. Applicant: NECKER J. PAUYO 117-40 122nd Place Wakefield (Queens), NY 11420. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Please direct status inquiries about the following to Team Four at (202) 275-7669.

Volume No. OP4-456

Decided: July 15, 1983.

By the Commission, Review Board, Members: Fortier, Chandler, and Parker; Parker not participating.

MC 167056, filed March 25, 1983, originally published in the FR issue of April 6, 1983, and republished herein. Applicant: RITTMAYER TOURS, 21 Ellis St., Haddonfield, NJ 08033. Representative: Benjamin F. Rittmayer, (same address as applicant) (609) 429-2934. Transporting *passengers*, in charter and special operations, beginning and ending at Philadelphia, PA, and its Commercial Zone and extending to points in the U.S.

Note.—Applicant seeks republication to accurately reflect the scope of authority sought and to provide privately funded charter and special transportation.

[FR Doc. 83-19858 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

[MC-F-15295 [1]]

Rail Carriers; Hoover Universal, Inc.; Control Exemption; Cadiz Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) the Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11343 the continuance of control of Cadiz Railroad Company by Hoover Universal, Inc., upon Hoover's becoming a motor common carrier through a grant of operating authority.

DATE: This exemption will be effective on July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: July 15, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor concurred in part

[1] This proceeding was initially assigned Finance Docket No. 30104.

and dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19655 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-153)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment; in Phillips and Blaine Counties, MT; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 77.45-mile rail line between Saco (milepost 0.00) and end of the line near Hogeland (milepost 77.45) in Phillips and Blaine Counties, MT. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 day from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19656 Filed 7-21-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 83-17177 beginning on page 29631 in the issue of Monday, June 27, 1983, make the following correction:

On page 29633, first column, MC 168606, 21st Century Enterprises Ltd., in the last two lines, "(except AK and HI)" should have read "(except household goods) between points in the U.S. (except AK and HI)".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Mangement and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Bureau of Labor Statistics

Occupational Employment Statistics (OES Survey Monthly Progress Reports)

BLS 2877A

Monthly

State or Local Governments

SIC: 944

636 responses; 212 hours; 1 form

OES survey monthly progress reports are the primary source of current management on the status of the State OES operations. They allow for early identification and resolution of State collection problems on an ongoing basis. The identification and resolution of State survey collection problems is critical to the success of the OES program since the data collected are the primary input to national occupational estimates and projections produced by the Bureau for the implementation into educational and training program development.

Signed at Washington, D.C., this 19th day of July 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-19934 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-24-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Announcement of Vacancies and Request for Nomination

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (the Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the

Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his functions under ERISA, and to submit to the Secretary recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on November 14, 1983. The groups or fields represented are as follows: employee organizations, employers, insurance, accounting, and the general public.

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph, may submit recommendations to the Secretary of Labor, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210. Recommendations must be delivered or mailed on or before August 26, 1983. Recommendations may be in the form of a letter, resolution, or petition, signed by the person making the recommendation, or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation shall identify the candidate by name, occupation or position, telephone number and address. It shall include a brief description of the candidate's qualifications and shall specify the group or field which he or she would represent for the purposes of Section 512 of ERISA, the candidates' political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, D.C., this 18th day of July 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs.

[FR Doc. 83-19835 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-29-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; AMF Voit, Inc., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 1, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance at the address shown below, not later than August 1, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 18th day of July 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
AMF Voit, Inc. (URW)	Santa Ana, CA	7/8/83	6/29/83	TA-W-14,825	Inflated sporting goods, racquetball goods, swim gear, baseball plates, kicking tees, exercise grips.
Bessemer & Lake Erie Railroad (IB of FO)	Greenville, PA	7/11/83	7/8/83	TA-W-14,826	Transporting coal, iron ore, some steel.
Bryant Grinder Corp. (UE)	Springfield, VT	7/11/83	6/29/83	TA-W-14,827	Internal grinders.
Central Electronics Co., Paris Div. (company)	Paris, Ill	7/8/83	6/30/83	TA-W-14,828	Television components, parts and subassemblies.
Cooper Energy Services, Superior Div. (IAM)	Springfield, Ohio	7/11/83	7/1/83	TA-W-14,829	Engines for energy service.
Fellows Corp. (UE)	Springfield, VT	7/11/83	6/29/83	TA-W-14,830	Gear cutters.
Jones & Lamson Machine Company (UE)	Springfield, VT	7/11/83	6/29/83	TA-W-14,831	Turret lathes.
U.S. Steel Mining Co., Engineering Dept. (workers)	Gary, WV	7/8/83	6/13/83	TA-W-14,832	Steel mfg.
Eaton Corp., Engineered Fasteners Div., Tinnerman Plant (UAW)	Cleveland, OH	7/8/83	7/5/83	TA-W-14,833	Industrial fasteners.
Armco, Inc., National Supply Co. (workers)	Torrance, CA	7/14/83	7/6/83	TA-W-14,834	Oil and gas well drilling equipment.
Beechem Products (workers)	Cranford, NJ	7/13/83	6/22/83	TA-W-14,835	Pharmaceuticals and toiletries.
Bethlehem Mines Corp., Barrackville Mine (UMWA)	Charleston, WV	7/14/83	7/7/83	TA-W-14,836	Mine metallurgical coal.
(The) Connecticut Foundry Co. (wkrs)	Rocky Hill, Conn	7/14/83	7/11/83	TA-W-14,837	Gray iron castings.
Jackson China, Inc. (GPPAW)	Falls Creek, PA	7/13/83	7/7/83	TA-W-14,838	Chinaware—hotels and airlines.
Kaiser Steel Corp., Sunnyside Mine (UMWA)	Sunnyside, Utah	7/13/83	7/8/83	TA-W-14,839	Mine and preparation plant—coal.
Quanex Corp., Michigan Seamless Tube, Div. (USWA)	South Lyon, MI	7/13/83	7/7/83	TA-W-14,840	Seamless steel tubing.
Spang & Company, Ferroslag Div. (USWA)	Lorain, OH	7/13/83	7/6/83	TA-W-14,841	Reclimaction of slag for resale, remelt scrap baiast slag for blast furnaces.
Paulsen Wire Rope Corp. (company)	Sunbury, Pa	7/15/83	7/7/83	TA-W-14,842	Steel wire rope.

[FR Doc. 83-19935 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Allegheny Ludlum Steel Corp. et al.

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 July 11, 1983–July 15, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,770; Allegheny Ludlum Steel Corp., Wallingford Plant, Wallingford, CT

TA–W–14,173; Electron Corp., Littleton, CO

TA–W–14,219; Ro-Search, Inc., Hazelwood, NC

TA–W–14,407; C.F. Industries, Inc., Bartow, FL

TA–W–14,415; C.F. Industries, Inc., Donaldsonville, LA

TA–W–13,999; Park-Ohio Industries, Inc., Ohio Crankshaft Div., Cleveland, OH

TA–W–14,227; Plymouth Tube Co., Dunkirk, NY

TA–W–14,231; General Motors Corp., Buick Assembly, Flint, MI

TA–W–14,237; General Motors Corp., Oldsmobile Assembly, Lansing, MI

TA–W–14,240; General Motors Corp., Truck & Bus Manufacturing Div., St. Louis, MO

TA–W–14,241; General Motors Corp., Truck & Bus Manufacturing Div., Pontiac, MI

TA–W–14,242; General Motors Corp., Truck & Bus Manufacturing Div., Flint, MI

TA–W–14,307A; General Motors Corp., Truck & Bus Manufacturing Div., Detroit, MI

TA–W–14,312; General Motors Corp., General Motors Assembly Div. (GMAD), Oklahoma City, OK

TA–W–14,316; General Motors Corp., GMAD, Wilmington, DE

TA–W–14,317; General Motors Corp., GMAD, Arlington, TX

TA–W–14,318; General Motors Corp., GMAD, Baltimore, MD

TA–W–14,319; General Motors Corp., GMAD, Bowling Green, KY

TA–W–14,322; General Motors Corp., GMAD, Framingham, MA

TA–W–14,323; General Motors Corp., GMAD, Janesville, WI

TA–W–14,324; General Motors Corp., GMAD, Leeds Plant, Kansas City, MO

TA–W–14,326; General Motors Corp., GMAD, Lordstown, OH

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,017; Volkswagen of America, Inc., Fort Worth, TX

Aggregate U.S. imports of subcompact cars and light pickup trucks did not increase as required for certification.

TA–W–14,018; Volkswagen of America, Inc., South Charleston, WV

Aggregate U.S. imports of subcompact cars and light pickup trucks did not increase as required for certification.

TA–W–14,580; McKeesport Coating Co., McKeesport, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–14,311; General Motors Corp., GMAD, Norwood, OH

The investigation revealed that criterion (2) has not been met. Sales and Production, or both, did not decrease as required for certification.

TA–W–14,313; General Motors Corp., Truck & Bus Manufacturing Div., Shreveport, LA

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decrease as required for certification.

TA–W–14,315; General Motors Corp., GMAD, Van Nuys, CA

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decrease as required for certification.

TA–W–14,320; General Motors Corp., GMAD, Doraville, GA

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decrease as required for certification.

TA–W–14,321; General Motors Corp., GMAD—Fairfax Plant, Kansas City, KS

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decrease as required for certification.

TA–W–14,325; General Motors Corp., GMAD, Linden, NJ

The investigation revealed that criterion (2) has not been met. Sales and production, or both, did not decrease as required for certification.

Affirmative Determinations

TA–W–14,229; Melchem, Inc., Mineral Point, MO

A certification was issued covering all workers separated on or after January 1, 1982 and before August 31, 1982.

TA–W–14,452; Tecumseh Products Co., Acklin Stamping Div., Toledo, OH

A certification was issued covering all workers separated on or after February 22, 1982.

TA–W–14,202; Leemar Corp., Camden, NJ

A certification was issued covering all workers separated on or after June 1, 1982 and before January 1, 1983.

TA–W–14,203; Leemar Corp., Mantua, NJ

A certification was issued covering all workers separated on or after June 1, 1982 and before January 1, 1983.

TA–W–13,991; Cyclops Corp., Sawhill Tublar Div., Tubing Plant, Wheatland, PA

A certification was issued covering all workers engaged in the production of welded carbon steel tubing separated on or after November 3, 1981.

TA–W–14,239; General Motors Corp., Pontiac Motor Div., Pontiac, MI

A certification was issued covering all workers engaged in employment related to the production of standard automobiles at the Pontiac, MI plant separated on or after April 26, 1982 and before October 1, 1982.

TA–W–14,374; General Motors Corp., Cadillac Motor Car Div., Detroit, MI

A certification was issued covering all workers of the Detroit, MI plant separated on or after May 2, 1982 and before October 1, 1982.

I hereby certify that the aforementioned determinations were issued during July 11, 1983–July 15, 1983. Copies of these determinations are available for inspection in Room 9120, 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: July 19, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-19931 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,314]

General Motors Corporation, General Motors Assembly Division, South Gate, California; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 24, 1983, in response to a petition received on January 14, 1983, which was filed on behalf of workers at the South Gate, California plant of General Motors Assembly Division of General Motors Corporation. Workers at the South Gate plant produced Chevrolet J and Cadillac J cars.

A certification covering the petitioning group of workers remained in effect until April 25, 1982 (TA–W–7073). The South Gate, California plant ceased production operations in March 1982. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this July 14, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-19930 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,642]

Sohio Chemical Company, Lima, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 16, 1983 in response to a worker petition received on May 9, 1983 which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers and former workers producing ammonia and urea at the Lima, Ohio plant of Sohio Chemical Company.

The petitioners requested withdrawal of the petition in a letter dated June 14, 1983. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 13th day of July 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-19928 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-13-M]

Flatiron Sand and Gravel Co.; Petition for Modification of Application of Mandatory Safety Standard

Flatiron Sand and Gravel Company, P.O. Box 229, Boulder, Colorado 80306 has filed a petition to modify the application of 30 CFR 56.9–87 (audible warning devices on heavy duty mobile equipment) to its Deepe Farm Pit (I.D. No. 05–03532) located in Boulder County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that heavy duty mobile equipment be provided with audible warning devices when the operator of the equipment has an obstructed view to the rear.

2. Petitioner requests a modification of the standard which requires either an audible automatic reverse signal alarm or an observer to signal for safe back-up.

3. Petitioner states that people working near audible back-up alarms become insensitive to them and the alarms are offensive to residents near the mine. Boulder County granted the mining permit for this site stipulating that an acceptable alternative to back-up horns must be implemented on the site. Petitioner further states that the cost of hiring employees only to signal back-up activity is prohibitive and that the effectiveness of such a procedure on a continual basis is questionable.

4. As an alternate method, petitioner proposes to use a flashing light beam device to alert people behind the equipment. The light will serve the same purpose as the back-up signal but will be more effective because it will be noticeable mainly to those behind the equipment rather than to all regardless of their location.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 22, 1983. Copies of the petition are available for inspection at that address.

Dated: July 14, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19929 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-48-C]

Maple Leaf Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Maple Leaf Coal Company, R.D. #1, Box 182B, Lykens, Pennsylvania 17048 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Little Vein Slope (I.D. No. 36–02000) located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are nonexistent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, presents a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternate method proposed will at all times provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 22, 1983. Copies of the petition are available for inspection at that address.

Dated: July 14, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19027 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-38-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & B, Big Stone Gap, Virginia 24219-0196 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Holton Mine (I.D. No. 44-04197) located in Lee and Wise Counties, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner seeks a modification of the standard with respect to its Long Airdox-manufactured Mobile Bridge Carrier (MBC) which is used as an integral part of the continuous coal haulage system. The MBC has no operator's deck or seat so the operators must walk or crawl beside the MBC when it is trammed. Technology does not presently exist to equip the MBC with suitable canopies to protect and provide for the safety of the operators. Use of canopies on the MBC has resulted in a diminution of safety because:

a. The MBC is three distinct, separable units. Each unit must be operated in unison with the others. Communication and visibility between the three operators is hampered and impaired by the canopies, increasing the chances of an accident;

b. The canopies force the operators to lean out from the machine to improve visibility and communications, exposing body parts to potential injury; and

c. The canopies can strike the coal rib, the roof, and roof support system, creating the potential for accidents.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virgin.a 22203. All comments must be postmarked or received in that office on or before August 22, 1983. Copies of the petition are available for inspection at that address.

Dated: July 14, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19026 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application No. D-4044 et al.]

Proposed Exemption for Certain Transactions; Bell System Trust, New York, N.Y. et al.

AGENCY: Office of Pension and Welfare Benefit Programs, Department of Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Commnets and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

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. stated in each Notice of Pendency. The applications 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.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or 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 Reoganization 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, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Proposed Exemption for Certain Transactions Involving the Bell System Trust Located in New York, New York

[Application No. D-4044]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply, effective December 29, 1982, to: (1) The acquisition by the Bell System Trust (the Trust) of a parcel of land and the improvements thereon (the Property), as described in the application; (2) the extension of credit by Equitalbe Life Assurance Society of the United States (Equitable) to the Trust; and (3) the existing, renewal and future lease of space in the Property to certain parties in interest with respect to the Trust.

Effective Date: The effective date of the proposed exemption, if granted, will be December 29, 1982.

Summary of Facts and Represenations

1. The Trust is a tax-exempt trust established pursuant to the Bell System Trust Agreement dated October 1, 1980 (the Trust Agreement). The Trust was established by American Telephone and Telegraph Company (AT&T) as a group trust to hold, manage and invest assets held by the trusts created under the Bell System Pension Plan and the Bell System Management Pension Plan (the Plans). The Plans are noncontributory defined benefit pension plans which provide benefits to eligible employees (and their beneficiaries) of AT&T and certain of its subsidiaries and affiliates. As of December 31, 1981, the Plans covered a total of approximately 1,150,000 active and retired participants and Trust assets were approximately $35.7 billion.

2. Under the terms of the Trust Agreement, AT&T retains the authority to hire investment managers to manage all or a portion of the assets of the Trust. Pursuant to that authority, AT&T has retained the services of more than 100 independent trustees and investment managers to hold and manage Trust assets. Among the independent investment managers and trustees are Equitable, Heitman Advisory Corporation (Heitman), Wells Fargo Bank National Association (Wells Fargo), Harris Trust and Savings Bank (Harris Trust) and Bank of America National Trust and Savings Association (Bank of America). Currently, less than eight percent of the assets of the Trust are invested in real estate investments.

3. Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. It is the third largest life insurance company in the United States. Among the wide variety of products and services it offers, Equitable provides funding, asset management and other services for serveral thousand employee benefit plans subject to the provisions of Title I of the Act. As one of the independent investment managers for the Trust, Equitable has invested assets under its control in various pooled and single customer separate accounts and investment advisory accounts. Equitable has no authority or responsibility, and does not provide investment advice, with respect to the Trust assets involved in the transactions which are the subject of this application. The Trust assets involved in the subject transactions are under the sole investment discretion of Heitman. Equitable has no ownership interest in Heitman, no common directors with Heitman, and is not involved in any joint ventures or partnerships with Heitman. Accordingly, Equitable has no influence over Heitman's decisions as an investment manager for the Trust.

4. Heitman is an Illinois corporation with its principal office in Chicago, Illinois. It is an investment advisor registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 and with the Securities Division of the Secretary of State of Illinois. Pursuant to the terms of an investment management agreement between Heitman and AT&T, Heitman has sole responsibility and discretion for the investment of Trust assets allocated to it for investment in real estate or real estate related investments, including responsibility for the acquisition, management and disposition of such investments on behalf of the Trust. Generally, real estate investments initiated by Heitman on behalf of the Trust are purchased in the name of a trustee or a nominee designated by Harris Trust. However, such trustee or nominee has no investment authority or control with respect to assets managed by Heitman. All investment decisions made by Heitman for the Trust are made by Heitman's investment committee. This committee consists of officers and directors of Heitman. None of the committee members is an officer, director or employee of Equitable, Wells Fargo or AT&T, or any affiliate thereof. None of the outstanding stock of Heitman or any affiliate thereof is held by Equitable, Wells Fargo or AT&T, or any affiliate thereof; nor does any officer, director, or employee of Equitable, Wells Fargo or AT&T (or any affiliate), own any stock of Heitman or any affiliate.

Pursuant to its investment management agreement with AT&T, Heitman receives a fee in connection with the acquisition of investments that it acquires for the Trust. This fee arrangement was arrived at through arm's-length negotiations between Heitman and AT&T. Under its investment management agreement with AT&T, Heitman also performs individual property management functions, including leasing, for each real estate investment acquired by Heitman for the Trust. The agreement provides that Heitman may perform individual property management functions either with its own personnel, or through agents which may or may not be affiliated with Heitman. Heitman commonly employs Centre Properties Limited (CPL), a corporation affiliated with Heitman, to perform individual property management functions with respect to parcels of real estate acquired by Heitman for the Trust. In return for performing individual property management functions, the investment management agreement provides that Heitman is entitled to property management and leasing fees with respect to each property based on a percentage of gross rentals from the property, as approved by AT&T, not to exceed the usual and customary fees charged by property managers in the same location for similar properties.

5. The Property acquired by the Trust includes a 43 story office building located in downtown San Francisco. The improvements to the Property were constructed in the mid-1960's and contain 618,000 rentable square feet of space. Wells Fargo was and still is one of the principal tenants in the Property. Prior to the transaction, Equitable owned a leasehold estate in the Property in its general account while fee simple title to the land was held by Wells Fargo. There was no outstanding mortgage on either parties' interest in the Property. At the time of the acquisition by the Trust, approximately 95 percent of the space in the Property was subject to existing leases.

6. Representatives of Heitman, on behalf of the Trust, and Equitable began discussions regarding the Property

during November 1982 and executed a binding written purchase agreement (the Agreement) on December 29, 1982 (closing also occurred on the same date). Prior to December 29, 1982, an agreement between Equitable and Wells Fargo for the transfer of the fee simple title to the land was negotiated in which Equitable would pay $28.5 million for such land and Wells Fargo would renegotiate certain existing leases (See the discussion of leases involving the Property in paragraph 7 below). Based on the terms of the Agreement, title to the land was then reconveyed by Equitable to the 44 Montgomery Street Corporation (the Corporation) which is wholly owned by the Trust.[1] The Corporation was created exclusively for the purpose of holding title to the land on behalf of the Trust, and is intended to meet the requirements of section 501(c)(2) of the Code. Pursuant to an ancillary trust agreement between Harris Trust, as trustee for the Trust, and Bank of America the leaseholder estate is to be held on behalf of the Trust in the name of Bank of America, as an ancillary trustee for Harris Trust. However, when the Agreement was executed by Equitable and Bank of America, it provided that all of the rights to be exercised by Bank of America under the Agreement would be exercised by Heitman. The terms of the Agreement are customary in connection with transactions of this type and were negotiated by Equitable and Heitman at arms length.

The purchase price for the Property (which included Equitable's leasehold estate, Equitable's interest in certain existing leases, contracts and tangible personal property held in connection with the improvements to the Property as well as the fee simple title to the land) was $125,500,000. The payment terms for the transaction were as follows:

a. Bank of America executed and delivered to Equitable at closing a promissory note (the Note). The Note is nonrecourse against the Trust, in the principal amount of $30 million and is secured by the Property and an assignment of rents and leases. The principal amount of the Note is payable five years after the closing of the sale. The Note bears interest at the rate of 12.5 percent, compounded monthly. Interest will be accrued and added to principal during the first three years of the Note, bringing the principal amount of the Note to $43,565,159 at the end of the third year. During the remaining two years of the Note, interest on the principal balance, as increased by such accrued interest, will be payable quarterly. The Trust will have the right to prepay all or part of the principal balance of the Note at any time without penalty; and

b. Bank of America delivered to Equitable at closing a letter of credit in the amount of $95.5 million (issued by a bank which is not a party in interest with respect to the Trust).

On January 6, 1983 Bank of America paid Equitable $95.5 million in cash and Equitable returned the letter of credit.

These terms have been determined by Heitman, as a fiduciary of the Trust, to be in the best interest of the Trust. Heitman believes that the Property is a high-quality investment opportunity and is consistent with the diversification of the Trust's investments. The purchase of the Property by the Trust represented an investment of approximately .4 percent of Trust assets.

7. There are currently in effect approximately 120 leases for space in the Property to approximately 100 different lessees. Among the lessees are several known parties in interest to the Trust. These parties in interest include several investment managers, trustees and affiliates of the sponsoring employer.[2] With the exception of the occupancy of a small amount of space by Equitable, all of the party-in-interest leases were negotiated by Equitable, or its predecessor in interest with respect to the leasehold estate, on terms which, to the best of the applicant's knowledge, reflect arm's length terms at the time that the leases were entered into. As a part of the negotiations for the acquisition of the Property, it was agreed that Equitable would terminate existing lease agreements, where it was a lessee, in the Property on the date of closing. In connection with its determination to acquire the Property on behalf of the Trust, Heitman has reviewed the existing leases and has formed the opinion that the leases do not impose any detriment to the economic value of the investment and that the party-in-interest lessees are corporations with credit standings to whom any prudent manager of commercial real property would prefer to lease.

In connection with Equitable's negotiations with Wells Fargo for acquisition of the fee simple title to the land, Equitable negotiated two new leases to succeed an existing Wells Fargo lease. The new leases will bring Wells Fargo's rental rates for the space into line with current market rates. These lease negotiations took place with the full knowledge by Heitman of the issues under negotiation. It is contemplated that under the new leases Wells Fargo will continue to occupy its present space in the Property for a period of ten years at current market rental rates; however, Wells Fargo will have the right to terminate the leases after five years. Wells Fargo will also have options to renew its leases of the space at market rental rates prevailing at the time of renewal. Heitman had the right to review and to approve or disapprove the terms of the new Wells Fargo leases before they were executed.

8. Following the acquisition, Heitman, through its affiliate, CPL, will pursuant to the terms of Heitman's agreement with AT&T, assume responsibility for the managment of the Property, including the monitoring and exercise of the rights of the Trust under the leases. In addition, CPL, under Heitman's supervision, will have responsibility for the leasing of space in the Property which becomes available for lease (or eligible for renewal) after the acquisition. Heitman believes that the leases with the above described parties in interest may from time-to-time be appropriately renewed or modified for valid business reasons. Heitman believes that other parties in interest with respect to the Trust (other than Heitman itself or an affiliate) may seek to lease space in the Property, that it may determine it to be in the best interests of the Trust to enter into leases with such parties in interest, and, therefore, that such leases should not be precluded.

7. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because: (a) The terms of the acquisition transaction were negotiated

[1] In connection with its efforts to sell the Property, Equitable entered into an agreement with Brooks Harvey and Company, Inc., a licensed real estate broker which is not related to Equitable, Heitman or AT&T. Pursuant to that agreement, Brooks Harvey will receive from Equitable for its services in connection with the sale of the Property, a fee of one percent of the gross selling price of the Property. Brooks Harvey has, from time to time, provided services to the Trust but has not had any involvement on behalf of the Trust with respect to the subject transactions.

[2] These parties are contributing employers with respect to the Plans, or affiliates of such employers under section 407(d)(7) of the Act, and the space leased to them would appear to constitute "qualifying employer real property" under section 407(d)(4). Accordingly, the continuation of the leases to these parties is permitted under sections 406 and 407 of the Act if the conditions of section 408(e) are met. Among the conditions of section 408(e) is the condition that no commission be paid by a plan in connection with the acquisition of the qualifying employer real property. As noted above, Equitable and not the Trust will pay a commission to Brooks Harvey in consideration of services rendered to Equitable in connection with its sale of the Property. Thus the payment of that commission by Equitable does not affect the availability of the section 408(e) exemption.

on an arm's-length basis on behalf of the Trust by an independent Trust fiduciary, Heitman; (b) Heitman represents that none of the parties to which the exemption applies, i.e., pre-existing lessees or Equitable, has in any way influenced Heitman's decision with respect to the investment; (c) Heitman represents that the investment is a high quality investment opportunity and allows for diversification of real estate investments for the Trust; (d) the Trust's investment in the Property will represent less than .4 percent of the Trust's total assets; (e) all of the existing party in interest leases were negotiated by Equitable or its predecessor in title on an arm's-length basis prior to Heitman's awareness of the investment opportunity; and (f) all renewals of existing leases and future leases to parties in interest with respect to the Trust will be arranged on an arm's-length basis, approved by CPL or a Trust fiduciary not related to or affiliated with the lessee, and will be monitored by Heitman or another independent Trust fiduciary.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523-6915. (This is not a toll-free number.)

The Bell System Pension Plan Trust; the Bell System Management Pension Plan Trust; and the Bell System Trust (the Trust) Located in New York, New York

[Application Nos. D-4459 et al.]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to:

(a) The past leasing of space, including any renewals or modifications thereof, in, respectively, the Century Properties Real Estate, located in Sims Valley, California, as described in Part II of this notice of pendency; the Beaumont Properties, located in Beaumont, Texas, as described in Part III of this notice of pendency; the Xerox Centre, located in Chicago, Illinois, as described in Part IV of this notice of pendency, to certain parties in interest with respect to the Trust by the Trust;

(b) The future leasing of space in these properties to parties in interest; provided that with respect to both the past and future leases: (i) The rental amounts and other lease terms are not more favorable to the party in interest lessees than those terms available to unrelated parties occupying like or similar space; and (ii) any renewal or modifications of such leases are negotiated by Centre Properties Ltd. (CPL), and monitored by Heitman Advisory Corporation (Heitman), or another Trust fiduciary not related to or affiliated with the party in interest lessee; and

(c) The current or future leasing of space to parties in interest in any real estate owned directly by the Trust or where the Trust has an interest, as described in Part V of this notice of pendency, provided: (i) The party in interest leases either: (A) Have been negotiated on an arm's-length basis prior to the Trust's investment and Heitman was the Trust fiduciary responsible for the Trust's investment in the property; (B) will be negotiated by Heitman or its affiliates; or (C) will be negotiated by a managing partnership, as to be described herein, in which the Trust is a partner and the party in interest lessee is not an affiliate of such managing partner and all are monitored by Heitman; and (ii) the terms of such leases are not more favorable to party in interest tenants as those available to unrelated parties occupying like or similar space in such property.

Effective Date: If granted, this exemption will be effective February 10, 1981, with respect to Century Properties Real Estate; February 17, 1981, with respect to the Beaumont Properties; January 6, 1982, with respect to the Xerox Centre; and effective with respect to the transactions described in Part V of this notice of pendency upon the date a grant of an individual exemption is published in the **Federal Register.**

Summary of Facts and Representations

Introduction

The applicant, Heitman, an investment manager on behalf of the Trust, as further described herein, submitted to the Department three separate exemption applications, each one relating to the Trust's past investment in a particular parcel of improved real property. Exemption Application Nos. D-4459 through D-4461 relate to the Trust's investment in the Century Properties Real Estate; Exemption Application Nos. D-4462 through D-4464 relate to the Trust's investment in the Beaumont Properties; and Exemption Application Nos. D-4465 through 4467 relate to the Trust's investment in the Xerox Centre. Each exemption application requests identical retroactive and prospective relief with respect to prohibited transactions resulting from the Trust's specific investment in the properties, and also request identical prospective relief for future and existing prohibited transactions relating to non-specific Trust property investments which are subject to the discretion and control of Heitman, subject to certain conditions. Accordingly, because of the identicality of the requested relief with respect to the above exemption applications, the Department is proposed exemptive relief for the subject transactions under the cover of one notice of proposed exemption.

The notice is divided into five parts. Part I contains general background information relating to the Trust and Heitman; Part II discusses past transactions associated with the Century Properties Real Estate Investment; Part III discusses past transactions associated with the Beaumont Properties investment; Part IV discusses past transactions associated with the Xerox Centre building; and Part V discusses general exemptive relief on behalf of Heitman and the trust relating to transactions associated with the above-properties and certain non-specific Trust property investments.

It is further noted that a proposed class exemption was published by the Department on behalf of qualified professional asset managers (QPAM's) on December 21, 1983 (47 FR 56945). In this regard, Heitman represents that it meets the definitional requirements of a QPAM as described in Part V(a) of the proposed class exemption, and therefore expects to qualify as a QPAM. However, Heitman represents that because the assets of the Trust managed by Heitman exceed 10% of all of the pension plan assets managed by Heitman, as described in Part I(e) of the proposed class exemption, prospective transactions which are the subject of this exemption may not be afforded relief under the class exemption when finalized. Furthermore, because the proposed QPAM exemption only provides for prospective relief, relief for past transactions as described in Parts II, III, and IV of this notice of pendency will not be afforded by the QPAM exemption.

Part I

(a) The Trust is a tax-exempt trust establishment pursuant to the Bell System Trust Agreement dated October 1, 1980 (the Trust Agreement). The Trust was established by American Telephone and Telegraph Company (AT&T) as a group trust to hold, manage and invest

assets held by the trusts created under the Bell System Pension Plan and the Bell System Management Pension Plan (the Plans). As of December 31, 1982, the Plans covered approximately 1,150,000 participants.

(b) Pursuant to section 4(a) of the Trust Agreement, AT&T has reserved power to hire investment managers to invest all or some of the fund held in the Trust. Heitman, an Illinois corporation with its principal office in Chicago, Illinois, is an investment advisor registered with the Securities and Exchange Commission and the Security Division of the Secretary of State of the State of Illinois. Heitman has entered into a management agreement with AT&T whereby Heitman has agreed to act as an investment manager for a portion of the Trust assets. Specifically, Heitman's duties are to invest allocated Trust funds, directly or indirectly, in parcels of real estate or real estate related investments. As an investment manager, Heitman has sole responsibility and discretion for the acquisition, management and disposition of each real estate related investment acquired by Heitman on behalf of the Trust. With respect to individual property management functions, Heitman employs as its agent CPL, a corporation affiliated with Heitman. All amounts allocated to Heitman from the Trust are allocated through Harris Trust and Savings Bank (Harris Bank), one of the Trust's trustees. All such investments are purchased in the name of Harris bank as trustee for the Trust, or such investment may be held by another nominee of the Trust, as may be designated to Heitman.

(c) All investment decisions made by Heitman for the Trust are made by Heitman's investment committee. This committee consists of Messrs. Norman Perlmutter, Miles Berger, William Jenson, Herbert Kuehnle, Eric Mayer, Stuart Isen, George A. Scheidler, and Lester Rosenberg. None of these individuals is an officer, director or employee of AT&T or any affiliate. None of the stock of Heitman or any affiliate is held by AT&T or any affiliate, nor does any officer, director, or employee of AT&T or any affiliate own any stock in Heitman or any affiliate. Heitman is one of over 100 investment advisors and managers of the Trust, and the Trust has 34 trustees including the Harris Bank.

Part II.—Century Properties Real Estate

(a) On February 10, 1981, Heitman acquired on behalf of the Trust all of the outstanding shares of C.P. Acquisition, Inc. (C.P.). At that time C.P. owned all of the outstanding shares of a subsidiary which on the above date merged into Century Properties (Century), a Califorina corporation. Pursuant to previous agreements, the result of such merger was that C.P. became the sole shareholder of Century. The primary assets of Century consisted of 40 parcels of improved commercial and industrial real estate known as Century Properties Real Estate. In March, 1981, Century was liquidated and title to each of the above parcels was conveyed to the Trust.

(b) Heitman believes that none of the above transactions involved acts as described in section 406 of the Act. However, upon the receipt by Heitman of a more complete list of parties in interest to the Trust subsequent to the Trust's acquisition of the properties, Heitman determined that one tenant in the properties, Pacific Southwest Realty Co. (Pacific), is a party in interest with respect to the Trust. Accordingly, upon the Trust's acquisition of Century and its properties the lease to Pacific became a prohibited transaction as described in section 406(a)(1)(A) of the Act.

(c) Pacific leases approximately 4.5% of the total useable area in a shopping center which is located on one of the above parcels. Pacific is a party in interest by virtue of being a wholly-owned subsidiary of Security Pacific Bank (Security), a trustee of the Trust. Pacific's lease was entered into in 1965 on an arm's-length basis between Pacific and Century, and is due to expire on November 30, 1986. Heitman represents that neither it nor any affiliate is affiliated or otherwise related to Pacific or Security, and that its decision to invest Trust assets in the properties was made without the knowledge of any party in interest lease. Neither Pacific nor Security nor an affiliate thereof had any discretion with respect to the Trust's investment in the Properties.

Part III.—Beaumont Properties

(a) On January 21, 1981, Heitman, on behalf of the Trust, entered into a commitment to purchase four parcels of improved real estate located in Beaumont, Texas (the Beaumont Properties), from U.S. Realty Investments, an unrelated party with respect to the Trust. The properties were purchased on February 17, 1981, and all of the existing leaseholds and tenancies were assigned to the Trust on the closing date. Subsequent to the purchase, Heitman received a more complete list of parties in interest to the Trust thereupon determined that one tenant in the properties, Aetna Life Insurance Company (Aetna), is a party in interest with respect to the Trust.

(b) Aetna leases approximately 1% of the total net rentable area in the properties under a lease entered into on an arm's-length basis on August 1, 1980, and due to expire July 31, 1983. Aetna provides guaranteed insurance contracts to the Trust, and has had no discretion with respect to the Trust's investment in the properties. Heitman represents that neither it nor any affiliate is affiliated or otherwise related to Pacific or Security and that its decision to invest Trust assets in the properties was made completely independent of the existence of any party in interest lease.

Part IV.—Xerox Centre

(a) Heitman, on behalf of the Trust, acquired on January 6, 1982, a forty story office building located in Chicago, Illinois (the Xerox Centre) from unrelated parties. Subsequent to the purchase, Heitman determined that eight parties in interest (the Parties) with respect to the Trust are tenants in the property. The Parties are the First Chicago Building Corporation (First Chicago), Wells Fargo Corporate Services, Wells Fargo Realty Advisors, Wells Fargo Business Credit, Wachovia Financial Corporation, B.A. Mortgage of Chicago, Mellon National Midwest Inc., and Pacific Southwest Realty. The Parties in the aggregate lease approximately 13% of the total useable area in the property, with the lease to First Chicago representing 7.1% of the total useable area. All of the lessees entered into their existing tenancies prior to the date of the Trust's acquisition of the Centre. As well, another tenant in the Centre, Blunt, Ellis and Loewi, Inc. (Blunt) became a party in interest with respect to the Trust by virtue of its merger into a party in interest, Kemper Insurance Company, in May 1982. The lease to Blunt represents approximately 1.5% of the total useable area in the Centre.

(b) None of the above Parties had any discretion with respect to the Trust's investment in the Centre, and neither Heitman nor any affiliate is affiliated with or otherwise related to any of the above Parties. Heitman made its decision to invest Trust assets in the Centre without the knowledge of any party in interest lessees.

Part V.—General Transactions

(a) Heitman requests general section 406(a) exemptive relief for current or

prospective leases of space in any property in which Heitman has caused the Trust to maintain a direct or indirect ownership interest. Indirect ownership of real property may be effected through the Trust's acquisition of a limited partnership interest in a partnership which in turn invests in limited partnerships which own real property. As well, Heitman represents that existing leases to parties in interest may be renewed or modified. Heitman represents that because of the large number of parties in interest with respect to the Trust, many of the properties in which Heitman has invested and will invest Trust assets, will have party in interest lessees. Most of these leases involving parties in interest usually comprise only a small portion of the rental income received by the Trust with regard to a particular investment. The applicant represents that exemptive relief for such transactions is necessary for Heitman to effectively conduct its operations with respect to the Trust.

(b) Heitman represents that with respect to all of the above transactions, the leases, or renewals or modifications thereof, will be negotiated on behalf of the Trust by CPL or a Trust fiduciary not related to or affiliated with the party in interest tenant, and will be monitored by Heitman, or will have been negotiated on an arm's-length basis prior to the Trust's investment. In no instance would the party in interest lessee have any discretion or influence with respect to Heitman's decision to invest Trust assets in a particular property. In the situation where the Trust acquires an interest in properties indirectly as described above, usually the general partner or an affiliate performs property management functions and Heitman approves and monitors such activities on behalf of the Trust. All party in interest leases, including leases to the general partner or any affiliate thereof, will be approved and monitored on behalf of the Trust by Heitman. The applicant represents that neither Heitman nor any affiliate of Heitman will be a lessee in any of the properties.

In summary, the applicant represents that the subject transactions meet the criteria of section 408(a) of the Act because: (a) None of parties in interest lessees to which the exemption applies have influenced or will influence in any way Heitman's discretion with respect to investing Trust assets; (b) the terms of the past and future transactions have been and will be negotiated on an arm's-length basis on behalf of the Trust by Heitman, or another independent Trust fiduciary; and (c) all transactions executed and to be executed between the Trust and parties in interest have been and will be effected on terms not less favorable to the Trust than those obtainable with unrelated third parties.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

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/or 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/or 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/or 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 exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or 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.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 14th day of July, 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-19942 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application No. D-3788]

Control Systematologists, Inc. Employee Stock Ownership Plan (the Plan) Located in Rayne, Louisiana; Withdrawal of Proposed Extension

In the **Federal Register** dated April 19, 1983 (48 FR 16785), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and the sanctions resulting from the application of the Internal Revenue Code of 1954. The notice of pendency concerned the proposed sale of an unimproved parcel of real property (the Property) by the Plan to Mr. B. C. Holstead, president and majority shareholder of Control Systematologists, Inc. (the Employer), the Plan sponsor, and his wife, Mrs. Jackie Holstead.

Subsequent to the publication of the notice of pendency, the Department discovered, as a result of an investigation of the Plan conducted by the Department, that the Property had been sold by the Plan to the Holsteads by an "act of sale" (Act of Sale) dated September 27, 1982, subject to a simultaneously executed "counterletter" (the Counterletter) executed by the Plan and the Holsteads. The Act of Sale was duly recorded in the appropriate local governmental office; however, the Counterletter was not recorded and was effective solely between the Plan and the Holsteads. The applicant stated that the Act of Sale was entered into to enable the Holsteads to secure construction financing for improvements constructed on the property that have recently been completed, from a bank which required a first mortgage on the property. The Counterletter was meant to have the effect of making the sale of the Property reversible, though still subject to the bank's mortgage lien, if the Department denied the exemption application. The application believes that a retroactive exemption is unnecessary because the Counterletter made the Act of Sale "contingent" upon receipt of an exemption and that it was therefore unnecessary to disclose the existence of the Act of Sale and the Counterletter because they were not

germane to the Department's consideration of the application.

The applicant's legal counsel, who also agreed to act as an independent fiduciary on behalf of the Plan regarding the sale of the Property, states that he drafted the Couterletter but did not know of the construction of the improvements upon the Property by the Holsteads because he did not at any time visit the site of the Property. He further stated that in acting as the Plan's fiduciary he relied "totally" upon information supplied by the Holsteads and by the appraiser retained by the Holsteads.

Section 4.06(17) of ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) requires a certification by the applicant that to the best of the applicant's knowledge, the application is accurate and complete. Furthermore, section 8.01 of the ERISA Procedure provides that "if any material fact contained in the application or any documents or testimony adduced by the applicant in support thereof is discovered by the applicant to be inaccurate, or if any such fact substantially changes, the applicant shall promptly notify the Secretary in writing and, in the case of an inaccuracy, shall include a statement of the reasons for such inaccuracy."

By letter dated June 15, 1983, the applicant's legal counsel requested the withdrawal from consideration of the exemption application.

In view of the above, the subject notice of pendency is hereby withdrawn by the Department which is considering further appropriate action.

Signed at Washington, D.C., this 19th day of July 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension, and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-19941 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-29-M

Dodge and Cox Real Estate Fund I et al.; Grant of Individual Exemptions

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are 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.

Statutory Findings

In accordance with section 408(a) of the Act and/or 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 findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Dodge & Cox Real Estate Fund I (the Fund) Located in San Francisco, California

[Exemption Application No. D-3359; Prohibited Transaction Exemption 83-113]

Exemption

Section I. *Exemption for Certain Transactions Involving the Fund*

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transaction Between Parties In Interest and the Fund:* General. Any transactions between a party in interest with respect to employee benefit plans (the Plans) participating in the Fund and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not Dodge & Cox (D&C) or Pacific Realty Advisors (PRA), the sponsors and managers of the Fund, or one of their affiliates and if, at the time of the transaction, acquisition or holding, the interest of the Plan, together with the interests of any other Plans maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transaction Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding:

(A) The interest of the multiemployer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a substantial employer with respect to the plan, or

(B) The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a substantial employer with respect to the plan and would not be a substantial employer if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales, or Holding of Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale, or holding of employer securities, or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to D&C or PRA or to the employer, or to any affiliate of D&C or PRA or the employer in connection with the acquisition or sale of employer securities; or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities

(aa) Neither D&C nor PRA nor any of their affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the Plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) Not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such Plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. D&C or PRA, their affiliates and any collective investment fund maintained by D&C or PRA or their affiliates shall be considered to be persons independent of the issuer if D&C or PRA is not an affiliate of the issuer.

(B) In the case of a participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which D&C or PRA or their affiliates has investment discretion does not exceed 10 percent of the fair market value of all the assets of the participating Plan with respect to which D&C or PRA or their affiliates has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party in interest with respect to a participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H), or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A), (B), (C), and (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions With Persons Who Are Parties in Interest With Respect to a Participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the fund and a person who is a party in interest with respect to a participating Plan if

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the participating Plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both and the person neither exercised nor has any discretionary authority, control, responsibility, or influence with respect to the investment of the participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of D&C or PRA.

(2) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not D&C or PRA, any affiliate of D&C or PRA, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Fund by D&C or PRA or by an affiliate of D&C or PRA in connection with the management of the real property owned by the Fund, if the compensation paid to D&C or PRA or their affiliate does not exceed the cost of the services to D&C or PRA or their affiliates.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities, by a place of public accommodation owned by the Fund to a party-in-interest with respect to a participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II. *Excess Holding Exemption for Employee Benefit Plans*

(a) The restrictions of sections 406(a), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a participating Plan if: (1) The acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III. *General Conditions*

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of D&C or PRA or their affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) D&D or PRA or their affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of D&C or PRA or their affilate the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interset shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a participating Plan who has authority to acquire or dispose of the interests in the Fund of the participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any participating Plan or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of D&C or PRA or their affiliate, or commercial or financial information which is privileged or confidential.

Section IV. *Definitions and General Rules*

For the purposes of this exemption,

(a) The term "the Fund" shall include any collective investment fund that may hereafter be established, operated, and managed by D&C or PRA or their affiliates in essentially the same manner as the Fund described herein.

(b) An "affiliate" of a person includes,

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the managements or policies of a person other than an individual.

(d) The term "relative" means a relative as the term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or spouse of a brother, or sister.

(e) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of,

(1) The two immediately preceding plan years, or

(2) the second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into; the acquisition is made; or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated.

If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the participating Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act of section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

The availability to 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 pursuiant to this exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 11, 1983 at 48 FR 6430.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523-8973. (This is not a toll-free number.)

Richard M. Leslie, P.A. Defined Benefit Plan and Trust (the Plan) Located in Miami, Florida.

[Exemption Application No. D-3948; Prohibited Transaction Exemption 83-114]

Exemption

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 on December 1, 1982, by the Plan from Mr. Richard M. Leslie (Mr. Leslie), the sole shareholder of the plan sponsor and the sole participant in the Plan, of shares of common stock traded on the New York Stock Exchange (the NYSE) at the closing prices of such shares on the NYSE on that date and the concurrent extension of credit by Mr. Leslie to the Plan. Since Mr. Leslie is the sole sharehold of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3 (b) and (c)(1). However, there is jurisdiciton under Title II of the Act pursuant to section 4975 of the Code.

Effective Date: The exemption is effective December 1, 1982.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27319.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

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/or 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/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of secion 404 of the Act, which amount 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) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or 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.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately described all material terms of the transactions which is the subject of the exemption.

Signed at Washington, D.C., this 19th day of July, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-19939 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-29-M

R. J. Abramo Associates, Inc. et al; Employee Benefit Plans; Prohibited Transaction Exemptions

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

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. stated in each Notice of Pendency. The applications 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.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or 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, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

R.J. Abramo Associates, Inc. Profit Sharing Plan (the Plan) Located in Holliston, Massachusetts

[Application No. D-3898]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code 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 for a period of five years to: (1) The proposed loans (the Loans) of money by the Plan to R.J. Abramo Associates, Inc. (the Employer); and (2) the guarantee of repayment on the Loans by the Employer and Mr. Ralph J. Abramo, Sr. (Mr. Abramo), provided that the terms and conditions of such Loans are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire 5 years after the date of grant with respect to the making of any loan. The proposed exemption would also extend to the holding by the Plan of any Loans beyond the initial 5 year period provided such Loans originated during the initial 5 year period.

Summary of Facts and Representations

1. The Plan is a profit-sharing plan which as of October 31, 1982 had 8 participants and assets of approximately $65,000. The trustee of the Plan, Mr. Abramo, is also the president and sole stockholder of the Employer. The Employer is a manufacturing corporation engaged primarily in the business of designing and making tools for plastic injection molding machines and in manufacturing plastic injection molded parts for sale to its customers. The Employer and Mr. Abramo own a number of plastic injection molding machines and tools as well as peripheral equipment (the Machines).

2. The Employer is requesting an exemption to allow the Plan to make Loans on a recurring basis for a period of five years to the Employer. The proceeds of the Loans will be used by the Employer to help expand its business as well as to help finance its ongoing business operations.

3. The Loans will be subject to the following conditions:

(a) Each Loan will be evidenced by a promissory note and collateralized by a filed and perfected security agreement.

(b) For each Loan the Plan will have a lien or liens on one or more Machines owned by the Employer or Mr. Abramo, such that at all times each Loan will be collateralized in an amount at least equal to 150% of the outstanding balance of such Loan. The Machines were appraised on January 6, 1983 by Mr. Edward W. Dunbar (Mr. Dunbar) of DPM Associates to have a fair market value of $30,898.41.

(c) The maximum length of any Loan will be 60 months. Principal and interest

will be payable in substantially equal monthly installments.

(d) The interest rate on the Loans will be fixed at the time each Loan is made at the prevailing commercial loan rate for similar loans of the Guaranty First Trust Company, Waltham, Massachusetts. This interest rate is currently 1½% over prime.

(e) At the time of the making of any Loan, no more than 25% of the market value of the assets of the Plan will be used for Loans, measured by the aggregate of the then outstanding Loan balances.

(f) The Employer will adequately insure the Machines and all other collateral against fire and all other relevant hazards with the Plan being named as beneficiary of such insurance.

(g) Each loan will be guaranteed by the Employer and by Mr. Abramo. The Employer as of October 31, 1982, has net assets of approximately $753,355 and Mr. Abramo's net worth, as of December 10, 1982, was approximately $710,687.

4. Prior to the Plan entering into any Loan an independent fiduciary, Mr. James Lagerbom, C.P.A. (Mr. Lagerbom) must certify that such Loan will be an appropriate investment for the Plan and that the terms of such Loan are at least equal to those which the Plan could receive in a similar transaction with an unrelated party. Mr. Lagerbom has no relationship with the Employer or the Plan other than acting as Plan fiduciary. Mr. Lagerbom will also be responsible for monitoring, on behalf of the Plan, the fair market value of the collateral used to secure the Loans as well as for monitoring and enforcing the Employer's compliance with the terms and conditions of the Loans. Mr. Lagerbom shall be responsible for appraising the security for any such Loans and for seeing that the value of the security at all times remains in excess of 150% of any outstanding loan balances. Mr. Lagerbom represents that he has been advised by legal counsel with regard to his duties, responsibilities and liabilities as independent fiduciary under the Act.

Mr. Lagerbom represents that he has examined the Plan's investment portfolio, considered the cash flow needs of the Plan, considered the effect of any sale of Plan assets needed to finance a Loan, examined the diversification of the Plan's investments in light of the proposed Loans, and has reviewed the terms of the proposed Loans, and has determined that they comport with the Plan's other investments.

5. In summary, the applicant represents that the proposed transactions will meet the statutory criteria of section 408(a) of the Act because:

(a) The Loans will be approved and monitored by an independent fiduciary;

(b) The exemption will be limited to a 5 year period;

(c) The Loans will be secured at all times by collateral with a value of at least 150% of the outstanding balance of the Loans; and

(d) The independent fiduciary has determined that the proposed transactions are appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Crenshaw, Dupree and Milam Self-Employed Retirement Plan and Trust (the Plan) Located in Lubbock, Texas

[Application No. D-3953]

Proposed Exemption

The Department is considering granting an 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 past loan of $34,331 (the Loan) by the Plan to Crenshaw, Dupree and Milam (the Employer), 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.

Effective Date: If granted, the exemption will be effective November 30, 1982.

Summary of Facts and Representations

1. The Plan is a self-employed retirement pension-type plan with 36 participants. There are no owner-employees as defined in section 401(c)(3) of the Code that participate in the Plan. The Plan had total assets of approximately $1,832,317 as of December 31, 1982. The trustee of the Plan (the Trustee) is the First National Bank at Lubbock, Lubbock, Texas. The Trustee has complete investment authority for the Plan.

2. The Employer is a Texas general partnership with 23 partners.

3. On November 30, 1982, the Plan made the Loan to the Employer. The Loan was evidenced by a promissory note (the Note), signed by the Employer. The Note bears interest at the annual rate of 15¾% and is payable in 36 monthly installments of $1,203 each. The Note may be prepaid at any time without premium or penalty and contains the usual provisions as to acceleration of maturity and payment of reasonable attorneys fees in case of default.

4. The proceeds of the Loan were used for the purchase of certain IBM equipment (the Equipment) which was then being leased to the Employer. The fair market value of the Equipment, as established by IBM, the manufacturer of the Equipment in a letter to the Trustee dated November 30, 1982, is $60,298. IBM also states that if the Equipment were financed by IBM they would charge a 15¾% interest rate payable in 36 monthly installments of principal and interest.

5. The collateral for the Loan is a perfected first security interest in the Equipment. The value of the Equipment represents almost 200% of the amount of the Loan. Also, the Note has been signed by the Employer, thereby subjecting each of the general partners to joint and several liability on the Note. The net worth of each of the general partners of the Employer is in excess of the amount of the Note.

6. The Trustee is independent of the Employer. The relationship between the Trustee and the Employer is and has been minimal in that the accounts maintained by the Employer with the Trustee represent less than 1/10th of 1 percent of the total deposits of the Trustee. Also, Mr. James H. Milam, a partner in the Employer is a member of the Board of Directors of the Trustee. However, Mr. Milam has no voting control of the Board of Directors of the Trustee in that his vote represents one out of 25 of the total votes of the Board of Directors.

7. The Trustee reviewed all of the specific terms of the Loan prior to the time it was made. The Trustee made the determination, prior to the consummation of the Loan, that it was in the interests of and protective of the Plan and its participants and beneficiaries.

8. The Trustee:

(1) Reviewed the Plan's entire investment portfolio and decided that the Loan fit into the investment scheme of the Plan;

(2) Determined that the Loan represented diversification for the Plan assets, an adequate rate of return, and met all other standards for Plan investments;

(3) Reviewed the appraisal of the Equipment and was satisfied that the

Equipment was adequate collateral for the Loan;

(4) Represents that it will review and update the appraisal of the Equipment in order to assure that its value remains at least 150 percent of the outstanding value of the Loan;

(5) Represents that it has the authority to call in the collateral for the Loan in the event of default;

(6) Represents that it has been acting in accordance with its responsibilities as an independent fiduciary since the making of the Loan; and

(7) Represents that it permitted the Plan to make the Loan to the Employer prior to receiving an administrative exemption because it was advised by counsel for the Plan that a simultaneous making of the Loan and application for exemption from the prohibited transaction rules of the Act could be made to the Department.

8. In summary, the applicant represents that the statutory criteria of section 408(a) of the Act has been met because:

(a) The Loan is secured by collateral having a present fair market value of almost 200 percent of the Loan amount; and

(b) The Plan's independent fiduciary represents that it made the determination prior to the making of the Loan that it was in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Bendix Corporation Salaried Employees' Savings and Stock Ownership Plan (the Plan) Located in Southfield, Michigan

[Application No. D–3990]

Proposed Exemption

The Department is considering granting an 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 sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to: (1) The acquisition on January 31, 1983 of certain notes (the Notes) of the Allied Corporation (Allied) which was the sponsor of the Plan at the time of the acquisition of the Notes; and (2) the holding of the Notes by the Plan for the period of January 31, 1983 through June 30, 1983.

Effective Date: If this proposed exemption is granted, the effective date will be January 31, 1983.

Summary of Facts and Representations

1. The Plan, which until January 31, 1983 was sponsored by the Bendix Corporation (Bendix), is a profit sharing plan which as of November 30, 1982 had 15,713 participants and assets of $359,810,470. As a part of its assets on November 30, 1982, the Plan owned 4,275,823 shares (the Stock) of the common stock of Bendix. The stock represented 19.85 percent of the common stock of Bendix. Under the terms of the Plan, eligible participants contributed through payroll deductions a specified percentage of their monthly base salary and Bendix matched a portion of such contributions on a percentage basis. Participants' contributions were invested, at their option, in a Government Bond Fund and/or a Bendix Common Stock Fund. Bendix contributions were invested entirely in the Bendix Common Stock Fund. The trustee of the Plan was required to vote the shares of the Bendix common stock attributable to any participant in accordance with the instructions of the participant and to vote all shares attributable to any participants from whom it did not receive instructions in the same ratio as the shares with respect to which instructions were received from other participants. Citibank N.A. (the Bank) which is located in New York City, New York is the trustee of the Plan.

2. The applicants represent that on January 31, 1983 a merger (the Merger) took place in which a wholly owned subsidiary of Allied was merged with and into Bendix. Pursuant to the terms of the Merger, each share of Bendix common stock (other than dissenting shares and shares held by Bendix, Allied or any subsidiary of Allied) was converted into 1.3 shares of Allied common stock, .25 of a share of a new series of Allied Preferred Stock and the Notes which are Allied 6 percent Original Issue Discount Notes due in 1988 and 1996. Becaue as much as 55.24 percent of the outstanding Bendix common stock was involved in the Merger, the Plan's 19.85 percent of the Bendix common stock was an effective 44.35 percent of the voting shares and the Plan received that percentage of each of the securities issued pursuant to the Merger. The applicants represent that such a high percentage of ownership resulted: (1) In part from the long-standing nature of the Plan and the consistently high level of participation on the part of Bendix employees, and (2) in part, from the elimination of as much as approximately 55.24 percent of the outstanding Bendix common stock from the Merger as a result of a prior tender for and purchase of Bendix common stock by the Martin Marietta Corporation and the sale of such stock pursuant to the stock purchase agreement (the SPA Agreement) which was entered into on September 24, 1982. The SPA Agreement involved certain securities purchases by Allied the result of which gave Allied an ownership of approximately 50.3 percent of the shares of the Bendix common stock on a fully diluted basis.

3. Because of the large percentage ownership of the common stock of Bendix by the Plan, the acquisition and holding of the Notes by the Plan in the Merger resulted in the Plan owning more than 25 percent of the aggregate principal amount of the Notes. Accordingly, the Plan was prohibited from acquiring or holding the Notes because the Plan was acquiring and holding non-qualifying employer securities as defined under section 407 of the Act.

4. The applicants are requesting an exemption which will permit the acquisition and holding of the Notes by the Plan. The applicants represent that such acquisition and holidng of the Notes was in the best interests of the participants of the Plan. The Applicants propose to amend the Plan to permit the acquisition and holding of the Notes based upon the following terms and conditions:

(1) Prior to the Merger, each Plan participant received an election card entitling him to direct the Bank to sell on his behalf all or none of the Noted allocable to his account on the open market. Such sales were made as soon as practicable at the Bank's discretion taking into account the aggregate principal amount of all such directed sales and market conditions. Participants were permitted to direct reinvestment of the proceeds of such sales in existing funds under the Plan. Such sale and reinvestment transactions will not result in any tax consequences to the Plan participants.

(2) Within one year after the Merger, the applicants propose to amend the Plan to establish one or more new investment funds and participants will be given an option (anticipated to be given no less frequently than four times annually) to direct further sales of the Notes allocable to their accounts and for the reinvestment of the proceeds in such new funds. Such sale and reinvestment transactions will be accomplished by

intra-Plan procedures and will not result in any tax consequences to the Plan participants. The applicants represent that pursuant to Plan participant sales, as detailed above, the Notes presently held by the Plan constitute only 23 percent of the total Notes outstanding.

5. The Bank as the trustees and as fiduciary of the Plan represents that because the Bank recognized that the acquisition and holding of the Notes might constitute a prohibited transaction it carefully reviewed alternatives to acquiring the Notes prior to the date of the Merger and that for the reasons discussed below determined that these alternatives posed significant risks or disadvantages to Plan participants.

6. Relying on the position taken by the Department in Advisory Opinion 76–72, the Bank evaluated ways in which it could avoid acquiring the Notes by assigning its rights to the Notes to an unrelated third party under a binding agreement prior to the Merger. After careful review, the Bank determined that such an anticipatory assignment would not be in the best interest of Plan participants because it would constitute a forced sale at a fixed future date of a portion of the consideration that Plan participants were otherwise entitled to receive at the time of the Merger. Because the sale might occur at a time when the bond market was depressed, such an anticipatory assignment would create an unnecessary risk of loss to the participants.

7. The Bank also evaluated whether it would be in the best interest of Plan participants to seek appraisal rights for the shares held by the Plan. The Bank determined that, under applicable Delaware law, the appraised value of the shares would exclude any element of value arising from the accomplishment or expectation of the Merger. Moreover, in order to seek appraisal rights, the Bank would have had to dissent from the Merger and override the directions of an overwhelming majority of Plan participants. Therefore, the Bank concluded that it would not be in the best interest of Plan participants to seek appraisal rights on behalf of the Plan as a whole because such appraisal rights would not maximize the value of Plan participant's accounts and would be contrary to the preferences of substantially all the Plan participants. It did, however, pass through individual appraisal rights, and eight participants have requested to have their Plan shares appraised.

8. After weighing these alternatives (including detailed discussions with representatives of Bendix and Allied and consultations with outside ERISA counsel) the Bank concluded that the value of Plan participants' accounts would be maximized, the risk of loss to those accounts would be minimized, and the Plan participants' preferences would be honored, by acquiring the Notes and by agreeing with Bendix to amend the trust agreement of the Plan to permit Plan participants to direct the Bank to sell the Notes as soon as practicable at the Bank's discretion.

9. For these reasons, the Bank was, and is, of the opinion that an exemption permitting the Plan to acquire and hold the Notes is in the best interest of Plan participants, is consistent with the principles underlying the fiduciary responsibility provisions of the Act and is administratively feasible.

10. In summary, the applicants represent that the acquisition and holding of the Notes satisfies the requirements of section 408(a) of the Act because: (1) The Bank represents that it was and will be in the best interests of the participants of the Plan; (2) each participant in the Plan had and continues to have the right to sell the Notes that are in his individual account; (3) each participant in the Plan received the same Notes in the Merger as other shareholders of the Bendix common stock; and (4) pursuant to Plan participant sales, the Notes presently represent only 23% of the total Notes outstanding.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Pioneer Hi-Bred International, Inc. Savings Plan (the Plan) Located in Des Moines, Iowa

[Application No. D–4010]

Proposed Exemption

The Department is considering granting an 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 sections 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 making of past and prospective loans (the Loans) by Pioneer Hi-Bred International, Inc. (the Employer) to the Plan, provided the terms and conditions of the Loans are at least as favorable to the Plan as those obtainable in arm's length transactions with an unrelated party.

Effective Date: This exemption is effective as of October 7, 1982.

Temporary Nature of Exemption: This exemption is temporary in nature and will expire on July 1, 1991.

Summary of Facts and Representations

1. The Plan is an employee savings plan with 1,100 participants and total assets of $4,224,467 as of December 31, 1982. The Plan provides pension, disability and death benefits to eligible participants and their beneficiaries. These benefits are derived from a group annuity contract (the Contract) entered into by the Employer and an insurance company funding agent (the Funding Agent). Since January 1, 1982, Bankers Life Company (Bankers Life) of Des Moines, Iowa has served as the Funding Agent for the Plan. Bankers Life is an unrelated entity. As the Funding Agent, Bankers Life maintains separate accounts for each participant. As of December 31, 1982, the total Plan assets on deposit with Bankers Life was $2,487,783. Of this amount, $2,047,159 of the Plan's assets was invested in a fixed rate account earning 15.25 percent interest and $440,624 was invested in a money market account which carries a variable interest rate.

2. The Plan is administered by a committee consisting of directors, officers, employees or other individuals. These persons serve at the pleasure of the Board of Directors of the Employer.

3. The Employer is engaged in the manufacture of seed corn. The Employer maintains its principal place of business at 1206 Mulberry Street, Des Moines, Iowa.

4. On December 14, 1981, pursuant to a Contract entered into in September 1979 between the Employer and Mutual Benefit Life Insurance Company (Mutual Benefit) of Newark, New Jersey, an unrelated entity, the Employer notified Mutual Benefit that effective January 1, 1982, Bankers Life had been selected as the Funding Agent for the Plan and that Mutual Benefit's Contract with the Employer had been terminated. Mutual Benefit acknowledged the termination notice and advised the Employer that the funds held by Mutual Benefit ($1,736,684 as of December 31, 1982) would be paid over a period of years to Bankers Life in accordance with the terms of Mutual Benefit's Contract. Mutual Benefit's Contract provides that if the aggregate transfer payment is greater than $250,000, Mutual Benefit can make the payment in annual installments over a ten year period with interest. Interest would be computed at a rate equal to the greater of: (a) The highest rate of interest being credited

(11.55 percent) in accordance with the Contract during the twelve month period immediately preceding the date of discontinuance less one-half of one percent (i.e., 11.05 percent), or (b) the estimated Experience Rate of Interest applicable to the Contract.[1] Mutual Benefit's Contract further provides that if the transfer payment is made in annual installments, Mutual Benefit will provide an initial accounting of the participants' accounts as of the transfer date applicable to the first installment but it will not be responsible for maintaining the participants' accounts thereafter.

5. The Plan is funded through voluntary employee contributions. Though the Plan is structured to permit Employer contributions, no Employer contributions have been made. Notwithstanding the Mutual Benefit "transfer of funds" provisions, the Plan provides that a participant may withdraw part or all of his account. Such withdrawal is considered the discontinuance of the participant's participation in the Plan. As a result of the change in Funding Agents, participants' accounts can be classified as followed: (a) Participants having an account made up of funds with Mutual Benefit; (b) participants having an account made up of funds with Mutual Benefit and Bankers Life; and (c) participants having an account made up of funds with Bankers Life.

6. To accommodate the distribution of benefits to participants until such time as funds held by Mutual Benefit are transferred to Bankers Life, the Employer requests an exemption for the making of the Loans to the Plan on a Retroactive and prospective basis. The retroactive Loans, which total $224,975 as of April 5, 1983, have been made to the Plan by the Employer between October 7, 1982 and April 5, 1983 at Bankers Life request.

The Loans (past and future) will carry interest at a fixed rate equal to 11.05 percent which is the amount credited by Mutual Benefit to the balance of the transfer payment. In addition, the Employer has notified Plan participants that it will contribute on a voluntary basis .5 percent interest on the funds held by Mutual Benefit over the period the exemption is in effect so that the employees may earn the same interest rate (11.55 percent) as they would have earned had there not been a change in Funding Agents.

[1] The Experience Rate of Interest is defined in Mutual Benefit's Contract as interest at an effective annual rate determined by the Funding Agent in accordance with its investment year method of crediting interest for purposes of determining dividends under the Contract.

The Loans will be repaid by the Plan at such time as the funds in question are paid over by Mutual Benefit to Bankers Life. The application states that it is not possible for the Employer to predict the date and/or amount of each transfer payment made to Bankers Life. However, it is anticipated $500,000 will be received by Bankers Life on July 1, 1983 and that a payment will be received on each subsequent July 1 until the amounts are totally paid over to Bankers Life. Thus, the exemption will continue until July 1, 1991, the last date for a transfer payment from Mutual Benefit to Bankers Life or an earlier date if the final transfer payment occurs prior to July 1, 1991.

7. The Employer and Bankers Life represent that prior to the making of any Loans to the Plan by the Employer:

(a) Bankers Life will first determine that a valid employee request for withdrawal has been presented and that no Mutual Benefit funds are available. In order to comply with the participant's request, Bankers Trust will find that the Plan must borrow funds.

(b) Bankers Trust will then contact Iowa Des Moines National Bank (the Bank), an independent entity, and obtain the current market rate of interest which would apply to a Loan to the Plan. If the interest rate is greater than 11.05 percent, Bankers Life will advise the Employer and arrange for a Loan from the Employer of 11.05 percent. If the interest rate is 11.05 percent or less, Bankers Life will advise the Employer and arrange to borrow the funds from either the Employer or a third party lender at the rate described by the Bank.

(c) The term of the Loan will be limited to the period of time the funds in question are held by Mutual Benefit.

8. In summary, it is represented that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (a) The Loans will be initiated, accounted for and administered by Bankers Life; (b) the Loans will be liquidated as funds are transferred by Mutual Benefit to Bankers Life and as such, they will be repaid by July 1, 1991; (c) the interest rate charged on each Loan will equal the interest rate earned on funds held by Mutual Benefit; (d) the Employer will voluntarily contribute .5 percent interest on the funds held by Mutual Benefit so that employees may earn the same interest as they would have earned had there not been a change in Funding Agents; and (e) the Loans will allow the participants and beneficiaries of the Plan to receive a distribution of their account in accordance with the terms of the Plan and in proper amounts.

For Further Information Contract: Ms. Jan D. Broady of the Department, telephone (202) 523-9871. (This is not a toll-free number.)

Woman's Clinic, P.A. Profit Sharing Plan (the Plan) Located in Spartanburg, South Carolina

[Application No. D-4018]

Proposed Exemption

The Department is considering granting an 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 for $114,100 of certain real property (the Real Property) by the Plan to Woman's Clinic, P.A. (the Employer), provided this amount is not less than the fair market value of the Real property at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which has been in existence since February 19, 1973. As of March 31, 1981, the Plan had twelve participants and total assets of $486,854. The trustees of the Plan (the Trustees) are Drs. Edward R. Cathcart, W. Gordon Rogers, James O. Johnson and John R. Scott. These individuals participate in the Plan and are responsible for making investment decisions affecting it. The Employer, which is engaged in the medical practice of obstetrics and gynecology, maintains a clinic at 17 Drayton Avenue, Spartanburg, South Carolina.

2. Between April 21, 1976 and April 21, 1977, the Plan acquired the Real Property consisting of three small rental houses and two unimproved lots located in the Drayton Mill Village area of Spartanburg, South Carolina. The Real Property is specifically identified as follows:

(a) Lot 3V, consisting of a single family residence located at 16 Drayton Avenue.

(b) Lot 4V, consisting of a single family residence located at 5 Britton Street.

(c) Lot 5V, consisting of an unimproved parcel of land located at 3 Britton Street.

(d) Lot 6S, consisting of an unimproved parcel of land located on the west side of Britton Street between Drayton Avenue and Calvert Street.

(e) Lot 1X, consisting of a single family residence located at 6 Floyd Street.

The Plan purchased Lot 3V for $19,000 from Mr. John D. Brooks (Mr. Brooks), an unrelated party. The Plan acquired Lots 4V, 5V and 6V for $23,000, $17,000 and $14,000, respectively, from the Employer's pension plan (the Pension Plan). Lot 1X represented an in kind contribution from the Employer which was valued at $14,000.[1]

3. As of March 31, 1982, the Plan has paid for repairs totaling $2,508 and rental commission expenses totaling $2,024 in its ownership of the Real Property. The rental commissions have been paid to Mr. Maurice Cox (Mr. Cox), an unrelated realtor, in connection with Mr. Cox's management of the Real Property. The Employer has paid the property taxes and insurance premiums on the Real Property.

4. Sometime during 1976 and 1977, the Plan began leasing the unimproved parcels denoted as Lots 5V and 6S to the Employer for patient parking. The lots, which are in proximity to the clinic, were leased for a monthly aggregate rental of $250. The leases contained an option to renew on the same terms and conditions for five consecutive one year periods. The Employer was responsible for the payment of utilities, taxes, insurance, repairs and miscellaneous expenses.

The Plan also leased Lots 1X, 3V and 4V, on which are situated the single family residences, to unrelated parties. The gross monthly rental due from each lessee is $125 for Lot 1X, $50 for Lot 3V and $60 for Lot 4V.

5. By letter dated September 15, 1981, the Area Administrator (the Area Administrator) in the Atlanta, Georgia Field Office of the Department advised the Trustees of the results of his investigation of the Plan and gave the Trustees an opportunity to comment before determining the appropriate course of action to take. The Area Administrator made the following findings in his letter: The parking lot leases were in violation of section 406(a)(1)(A) of the Act; Lots 5V and 6S (the two parking lots) did not appear to meet the criteria for "qualifying employer real property" within the meaning of section 407(d)(4) of the Act; the Employer had not made any rental payments to the Plan (totaling $10,750) between September 1977 and March 31, 1981; the Employer had retained rental income due the Plan of $5,245 (representing the Plan's leasing arrangements with unrelated parties) in violation of section 406(a)(1)(B) of the Act; and a contribution in kind had been made by the Employer with respect to the Plan's acquisition of Lot 1X. Since Lot 1X had not been reported as a Plan asset, the Area Administrator viewed this as a violation of section 103(b)(3) of the Act.

The Area Administrator noted in the letter that he had been advised by the Trustees that certain corrective actions had been taken with respect to the above referenced Act violations and deficiencies. Specifically, on May 21, 1981 the Trustees advised the Area Administrator that the annual reports for the Plan would be amended to include Lot 1X and any additional distributions due terminated participants would be made as a result of such actions. In addition, on June 30, 1981, the Trustees advised the Area Administrator that the parking lot leases had been terminated effective March 31, 1981 and that all rental income due the Plan in the amount of $15,995 had been paid on June 25, 1981. However, the Area Administrator recommended that the Plan be recompensed for lost income attributed to the Employer's retention of rent. The Area Administrator also suggested that the Employer cease using Lots 5V and 6S for parking purposes prior to obtaining an administrative exemption.[2]

6. In a letter of October 6, 1981, Conrad, Hoey, East and Company (Conrad) of Spartanburg, South Carolina, the Employer's accountants, responded to the Department's recommendations. Conrad indicated the Trustees would pay the Plan interest at the rate of 15 percent per annum on all rental income retained by the Employer in order that the Plan could recover lost income. Conrad also reaffirmed that the necessary distributions to former employees would be made. Conrad further represented that the Employer had discontinued its use of the lots.

7. In a letter of December 8, 1981, the Area Administrator noted that the Employer had taken corrective action with respect to the plan's acquisition from and leasing of the Real Property to the Employer. Since corrective action had been taken, the Area Administrator indicated the Department would take no further action with regard to the issues raised. However, the Area Administrator cautioned that the Department would commit only itself and could not in any way restrain any other individual or governmental agency from taking any further action it might deem appropriate.

8. The Real Property was appraised on October 26, 1982 at $114,100 by Mr. Roger S. Refshauge (Mr. Refshauge), an M.A.I. appraiser and real estate broker. Mr. Refshauge is affiliated with the real estate appraisal firm of Earl G. Ezell and Company, Inc. of Spartanburg, South Carolina. In valuing each parcel comprising the Real Property at its highest and best use, Mr. Refshauge believes the Real Property has no special value to the Employer by reason of its proximity to the Employer's clinic. He says that although the values of the lots and houses are favorably affected by the presence of the clinic, this increase in value would be just as important to any prospective purchaser as to the Employer. At one time he notes, Lot 6S (one of the former parking lots) may have had some special value to the Employer but such value ceased when the Employer acquired another lot immediately behind the clinic and constructed a modern parking facility. Mr. Refshauge concludes that he placed no premium on this lot in his appraisal as a result of any special value to the Employer.

In addition, Mr. Refshauge finds the houses on Drayton Avenue and Britton Street (Lots 3V and 4V) to be ill-suited to new commercial or medical office development. He says the houses add no value to the land and are thus of no use to the Employer.

9. An exemption is requested to allow the Employer to purchase the Real Property from the Plan for its appraised value of $114,100. The transaction will be for cash. The Plan will not be required to pay any real estate commissions on fees in connection with the sale. In addition, the Employer represents it will pay all excise taxes which are applicable under section 4975 of the Code by reason of the Plan's acquisition from and leasing of the Real Property to the Employer, within 60 days of the granting of this exemption.

10. In summary, it is represented that the proposed transaction will satisfy the

[1] Although the exemption application states that none of the sellers from whom the Pension Plan, the Employer or Mr. Brooks originally acquired the lots are parties in interest, it is represented that the Pension Plan and the Plan are parties in interest within the meaning of section 3(14) of the Act. However, the Department does not see, based on the facts set forth in the exemption request, that the Plans are parties in interest with respect to each other. Because the Trustees of both plans are the same, the Department believes there may have been a violation of section 406(b)(2) of the Act at the time the Pension Plan sold Lots 4V, 5V and 6V to the Plan. Similarly, the contribution of Lot 1X by the Employer to the Plan may have been a violation of section 406(a)(1)(A) of the Act. To the extent such transactions constitute prohibited transactions, the Department is not proposing exemptive relief.

[2] The application states that the Employer does not presently use the lots for parking and that lost income due the Plan by reason of the Employer's retention of rent from the unrelated parties has been paid.

terms and conditions of section 408(a) of the Act because: (a) It will be a one-time transaction for cash; (b) the Plan will not be required to pay any real estate fees or commissions in connection with the sale; (c) the Plan will receive the fair market value of the Real Property as determined by an independent appraiser; and (d) the Employer will comply fully with the excise tax provisions of section 4975 of the Code by reason of the Plan's acquisition from and leasing of the Real Property to the Employer.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

United Technologies Corporation (UTC) Located in Hartford, Connecticut

[Application No. D-4031]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471), April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the leasing of office space in a building (the Building) in the Highland Oaks Office Plaza in Downers Grove, Illinois by 35 retirement plans (the Plans) maintained by UTC which have all or some of their assets held in a master trust (the Master Trust), to Aetna Casualty and Surety Company (Aetna Casualty), a wholly owned subsidiary of Aetna Life and Casualty Company (Aetna), a party in interest with respect to the Plans.

Effective Date: If granted, the exemption will be effective November 15, 1982.

Summary of Facts and Representations

1. UTC is a large, diversified Delaware corporation which maintains 49 retirement plans. Thirty-five of these retirement plans have all or some of their assets held in the Master Trust by Citibank, N.A. (Citibank), as trustee of the Master Trust. Fourteen other retirement plans maintained by UTC do not participate in the Master Trust. As of September 30, 1982, all of the plans maintained by UTC, including those not participating in the Master Trust, had assets aggregately of approximately $2.627 billion, of which approximately $1.461 billion was held in the Master Trust. Investment decisions for the Master Trust are made by the UTC Pension Committee based upon the recommendations provided by various investment managers and by the Pension Investment Committee, which is composed of officers of UTC. Aetna Life Insurance Company (Aetna Life), a wholly owned subsidiary of Aetna, is an investment manager for approximately $38 million of the UTC plan assets held in the Master Trust, constituting approximately 2.6 percent of the assets in the Master Trust. The assets of the Master Trust, which are managed by Aetna Life, are not involved in any of the transactions described herein.

2. The Building was previously wholly owned by the Opus Corporation, a Minnesota corporation which is authorized to do business in Illinois under the name of Opus Designers, Builders, Developers, Inc., (Opus). In July, 1982, Aetna Casualty began negotiations with Opus for the lease of office space in the Building. Opus is not related to Aetna, Aetna Casualty, or Aetna Life. On September 30, 1982, a lease (the Lease) was executed between Opus and Aetna Casualty for 95,551 square feet or approximately 44 percent of the total rentable space in the Building with options to expand up to approximately 68 percent.

3. In September, 1982, CIGNA Capital Advisers, Inc. (Advisers), on behalf of the Master Trust, began negotiations with Opus for the purchase of the Building. Advisers was originally established in 1970 as the investment advisor to a widely held real estate investment trust, was reorganized in 1982, and is currently in the business of advising clients with respect to real estate, mortgage and private placement investments. Advisers has applied for registration under the Investment Advisers Act of 1940. Advisers is unrelated to Opus, Aetna, Aetna Life and Aetna Casualty.

4. The proposed purchase of the Building by the Master Trust was presented by advisers to the UTC Pension Committee, which approved the purchase on November 15, 1982. The closing of the purchase of the Building by the Master Trust took place on December 28, 1982. The Building is now owned by 1020 Thirty-First Street Corporation, a corporation organized under the laws of Delaware that is intended to be exempt from Federal income tax as a title-holding company described in section 501(c)(2) of the Code. The stock of this corporation is held by Citibank as part of the Master Trust. The principal reason for using this corporation is to limit the liability of the Master Trust in recognition of the risks accompanying the ownership of large commercial real estate projects.

5. The applicants state that the Lease to Aetna Casualty was negotiated at arm's length with Opus prior to the purchase negotiations entered into on behalf of the Master Trust. The applicants are concerned, however, that Aetna, as the parent corporation of both Aetna Life and Aetna Casualty, may be deemed to benefit indirectly from the Lease, and therefore have sought exemptive relief. The Lease is for a ten year and seven-month period and contains additional options that, if exercised, would extend the Lease an additional ten years. The applicants state that Aetna Casualty is a large and stable tenant which would be difficult if not impossible to replace, that the Building is clearly worth more with the Lease to Aetna Casualty than it would be without the Lease, and that this additional value was reflected in the purchase price of the Building. On the basis of all available facts, including the size and quality of the tenant, the applicants represent that the Lease is at market rates and reflects the terms commonly included in comparable commercial leases in the relevant geographic area.

6. Advisers will act as the independent fiduciary for the Master Trust with respect to the Lease to Aetna Casualty, will monitor the Lease and will take any steps necessary to protect the rights of the participants and beneficiaries of the Plans in the Master Trust. An investment management agreement (the Agreement) between UTC and Advisers, appoints Advisers as an investment manager with respect to the Master Trust, and explicitly provides that Advisers will have full discretion and authority to manage the Building, including the negotiation and execution of leases. The Agreement provides in this regard that Advisers is to have complete and sole discretion with respect to the assets of 1020 Thirty-First Street Corporation, with full power and authority to manage the property, receive rents, hold and remit rent payments, and to execute leases and other contracts, as Advisers may consider appropriate. Advisers will receive an annual property management fee, but has not and will not receive any fees or commissions in connection with the purchase or sale of the Building.

7. In summary, the applicants state that the Lease to Aetna Casualty meets the statutory criteria of section 408(a) of the Act because:

(1) The Lease was executed on an arm's length basis between unrelated parties;

(2) The Lease is beneficial in that the Master Trust will have a large and stable tenant; and

(3) All further negotiations regarding the Lease will be conducted between Aetna Casualty and Advisers, as the independent fiduciary for the Master Trust.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

Profit Sharing Plan of Verplank's Coal & Dock Company (the Plan) Located in Grand Haven, Michigan

[Application No. D-4176]

Proposed Exemption

The Department is considering granting an 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 loan of funds, not to exceed 25% of total Plan assets, by the Plan to Verplank's Coal & Dock Company, over a seven-year period, provided the terms of the transactions are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

Temporary Nature of Exemption

This exemption is temporary in nature and will expire 7 years after the date of grant with respect to the making of a loan. The Plan may continue to hold loans beyond the 7 year period provided such loans originated during such 7 year period.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 7 participants. As of December 31, 1982, the Plan held assets of approximately $526,000. The trustee of the Plan is the Peoples Bank and Trust Company, Grand Rapids, Michigan (the Trustee).

2. The Employer is engaged in the wholesale distribution of aggregate and bulk commodities which includes limestone and slag.

3. The applicant requests an exemption to permit the Employer to borrow funds from the Plan over the next 7 years. The total amount of the funds borrowed (the Loans) will not exceed 25% of the total assets of the Plan. The proceeds of the Loans will be used to finance the purchase and inventory of aggregate and bulk commodities. The Plan has sufficient liquid assets to fund the Loans and no long-term investments will have to be liquidated.

4. The Loans will bear interest at the prime rate plus one-half. The prime rate will be the rate established from time to time by the Trustee. The Loans will be for periods not to exceed five years.

5. The Loans will be amortized over five years and be in minimum amounts of $50,000. Payments of interest and principal will be made at least on a quarterly basis, although the Employer may choose to make payments on a more frequent basis.

6. The Employer will provide collateral for the Loans in the form of promissory notes and mortgages on real estate owned by the Employer located in Holland, Michigan (the Real Estate). The Real Estate will, at all material times, have a value not less than 150% of the outstanding balance of the Loans. The fair market value of the Real Estate will be established to the satisfaction of the Trustee through independent appraisals. The Plan will have a properly recorded first lien on the Real Estate.

7. The Trustee represents the following:

(a) That it is unrelated to the Employer, with the exception of being the trustee for the Plan;

(b) That prior to authorizing any of the Loans, it will cause an independent appraisal of the Real Estate to be performed, or alternatively, will cause a qualified employee of the Trustee to make such an appraisal. The Trustee will not authorize any Loan unless the collateral used to secure it and all of the Loans has a value at least 150% of the outstanding balances of all of the Loans;

(c) That it will monitor the repayment of the Loans and have the authority to call in the collateral if there is a default in the repayment of any of the Loans;

(d) That it has reviewed the Plan's investment portfolio and has determined that the Loans fit into the Plan's overall investment scheme and will provide the Plan with a yield that will reflect the current and future interest rate cycles; and

(e) That the proposed interest rate proposed for the Loans is a fair market value rate, and it will adjust the interest rate from time to time in accordance with changes in the prime rate.

8. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because:

(1) The Loans will be adequately collateralized;

(2) An independent trustee will approve each of the Loans, monitor their repayment, and assure that they will be adequately secured; and

(3) The Trustee has determined that the Loans are in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Aaron Lee Katz Keogh Plan (the Plan) Located in San Jose, California

[Application No. D-4321]

Proposed Exemption

The Department is considering granting an 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 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 10.4478% fractionalized tenant-in-common interest (the Interest) in a certain parcel of real property (the Property), located at 22263 DeAnza Circle, Cupertino, California, by the Plan to Mr. Aaron L. Katz, a disqualified person with respect to the Plan, provided the price paid is no less than the fair market value of the Interest on the date of sale.

Summary of Facts and Representations

1. The Plan is a Keogh plan that had one participant, Mr. Katz and total assets of $44,575 as of December 31, 1982. The investment decisions of the Plan are made by Mr. Katz, as trustee (the Trustee).

2. In May 1981, the Trustee of the Plan purchased for $7,000, a 10.4478% fractionalized interest in a second deed of trust (the Deed of Trust) on the Property from Universal Loans (Universal Loans), Campbell, California, an unrelated party. The total amount of the Deed of Trust was $67,000. The remaining balance of $60,000 was financed by unrelated investors (the Investors). The Plan and the Investors, hereinafter will be referred to as the Beneficial Owners of the Property. The Trustee felt, at that time, that the purchase of an interest in the Deed of Trust would be a good investment for the Plan.

3. The mortgagor of the Property, an unrelated person, made payments to and including February 1982 to Universal Loans on behalf of the Beneficial

Owners, at which time the mortgagor defaulted. A foreclosure action pursuant to the power of sale contained in the Deed of Trust was commenced. On August 11, 1982, the Beneficial Owners became the owners of the Property. In order to protect its interest in the investment, the Plan paid $1,247.72 in March of 1982 and $178.93 in July of 1982, its proportionate share of certain defaults under the first mortgage, to John A. Miller and his wife Nancy S. Miller of Prescott, Arizona, the holder of the first mortgage. It is represented that the Plan currently owes an additional $1,494.04 for subsequent defaults under the first mortgage.

4. In addition to the above, the Trustee represents that: (a) There is an outstanding lien on the Property of $5,500 for unpaid real property taxes; (b) the Property has a monthly negative cash-flow of over $900.00; and (c) the Property is not appreciating in value nor yielding a return on its investment. The Trustee, therefore, proposes to sell the Interest to himself, as an individual, for $8,426.65 in cash, which represents the total cash outlay by the Plan as of May 27, 1983. No sales commissions will be paid by the Plan. An appraisal of the Property performed by Irv Abramson of NOR/CAL Appraisal Service, San Jose, California, on March 24, 1983, valued the Property at $305,000. The principal amount currently owed on the first encumbrance totals $211,263.77. The Trustee represents that putting aside the question of the real property taxes in arrears against the Property, the Plan's equity interest in the Property exclusive of costs of sale, is less than the $8,426.65, the offered purchased price by Mr. Katz.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) It is a one time transaction for cash; (b) no sales commission will be paid by the Plan; (c) the Plan will be able to dispose of the Interest in the Property at a price equal to the Plan's cost plus expenses to date rather than at its proportionate share of the equity of the Property, which is less than the price offered; and (d) the Trustee has determined that the proposed transaction would be appropriate for the Plan and in the best interest of the Plan's participant and his beneficiaries.

Notice to Interested Persons: Since Mr. Katz is the only participant affected by the transaction, there is no need to distribute notice to interested persons. Comments and hearing requests are due 30 days after the date of publication in the **Federal Register**.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

J. L. Kislak, Inc. Employees Profit-Sharing Plan (the Plan) Located in Springfield, Massachusetts

[Application No. D-4378]

Proposed Exemption

The Department is considering granting an 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 sections 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 to the proposed sale of a parcel of real property (the Property) by the Plan to J. L. Kislak Inc. (the Employer) for a cash purchase price of $140,777.51 or the fair market value of the Property on the date of sale, whichever is higher.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 159 participants and net Plan assets of $1,915,531 as of September 30, 1982. The Plan's investment decisions are made by the Plan's trustee (the Trustee), First National State Bank of New Jersey. However, the Trustee is subject to the direction of the Plan Committee, whose members are Jay L. Kislak, chairman of the Employer's board of directors, Ray F. Dillon, vice president and treasurer of the Employer, Jonathan L. Kislak, vice president of the Employer, and William Biggs, sales manager of J. L. Kislak Mortgage Co., Inc. (Kislak Mortgage), a wholly-owned subsidiary of the Employer and a contributing employer to the Plan.

2. The Property consists of a number of unimproved lots located in Fayettesville, Tennessee. On April 16, 1968, Kislak Mortgage made a mortgage loan on the Property to a party who was unrelated to the Plan, the Employer or its subsidiaries. The loan was in the amount of $156,000 which was 100% of the purchase price of the Property. In March of 1971, subsequent to a default on the loan, Kislak Mortgage foreclosed on the Property and contributed it to the Plan, taking a Federal tax deduction of $140,777.51, the outstanding principal balance due on the loan at the time it was contributed. The Plan Committee believed that the Property, when subdivided and developed by third party developers, would provide a substantial long-term gain to the Plan.

3. The Trustee and the Plan Committee have made the Property continuously available for sale to developers, but without success. As a result, the Property has produced no income to the Plan. The applicant states that the primary reason the Property has not been sold and has declined substantially in value (the appraised value is discussed below) is that a lot that abuts the Property is being utilized as an automobile junkyard and has dilapidated shack-type houses situated on it. In March 1982, an offer was made to purchase the Property for a net purchase price of approximately $45,000. After this offer was made, the Employer's board of directors proposed that the Employer purchase the Property for cash at its original cost to the Plan of $140,777.51. An appraisal of the Property was performed by George Nixon Gregson, M.A.I., an independent appraiser, who determined that the fair market value of the Property was $57,000 as of April 1, 1983. The applicant represents that neither the Employer, its principals or its subsidiaries owns any property adjacent to the Property, nor does the Property have any special value to such parties. The applicant further represents that the difference between the purchase price of the Property and its fair market value, if treated as an Employer contribution, will not cause the annual additions to the Plan participant's accounts to exceed the limitations of section 415 of the Code.

4. The applicant represents that the proposed transaction meets the statutory criteria for an administrative exemption under section 408(a) of the Act due to the following:

(a) The proposed sale is a one-time cash transaction;

(b) The purchase price to be paid by the Employer is greatly in excess of the appraised fair market value of the Property; and

(c) The Plan will be able to dispose of a non-income producing asset.

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 Internal

Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Mr. Robert N. Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

S.T.L.B. Incorporated Defined Benefit Penson Plan (the Plan) Located in South San Francisco, California

[Application No. D-4421]

Proposed Exemption

The Department is considering granting an 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 sections 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, for a period of eight years, to a proposed series of loans (the Loans), the aggregate of such Loans not to exceed the lesser of $350,000 or 25% of the Plan's assets by the Plan to S.T.L.B. Incorporated (the Employer), provided the terms of each Loan are no less favorable to the Plan than those available in an arm's length transaction with an unrelated party.

Temporary Nature of Exemption

If granted, the exemption will be temporary in nature and will expire eight years after the date of grant with respect to the making of a Loan. Loans may be held by the Plan after the initial eight year period provided the Loan originated during such eight year period.

Summary of Facts and Representations

1. The plan is a defined benefit plan that had approximately 18 participants and total assets of approximately $400,000 as of May 6, 1983. The investment decisions for the Plan are made by Mr. Robert Leech (Mr. Leech) as trustee (the Trustee). Mr. Leech is the president and sold shareholder of the employer.

2. The Employer is in the automobile rental business and must purchase new automobiles annually to replenish its fleet. In the past, the Employer has acquired outside financing from banks or, in more recent years, purchased some automobiles by financing internally. Due to the prohibitive costs involved, the Employer self-insures its fleet of automobiles against collision and comprehensive damages, which is customary for this industry.

3. The applicant is requesting a temporary exemption, for eight years which would permit the plan to invest up to the lesser of 25% or $350,000 of its assets in the Loans to the Employer for the purposes of financing the purchase of new automobiles for the Employer's fleet. Each Loan would: (1) Be limited to the lesser of 5,000 or 10% of the assets of the Plan; (2) bear a floating interest rate of 4% over the prime rate of Hibernia National Bank (the Bank) of South San Francisco, California, with a floor of 14%; and (3) have a term of 3 years. Repayments will be made in monthly installment of principal and interest. It is represented that each automobile purchased would cost approximately $6,500. The Employer is currently obtaining from the Bank an interest rate of 14% for similar type loans. It is represented that if the Bank was to change the Employer's financing to a prime-tied loan, it would charge a floating interest rate of 2½% over the Bank's prime rate with a floor of 10%.

4. The Loans will be secured by certain collateral (the Collateral). The Collateral includes but is not limited to each automobile purchased with a Loan from the Plan and certain other encumbered automobiles owned by the Employer. The title to all collateralized automobilies will be kept in the name of the Plan and all liens will be duly recorded with the Recorder of Deeds. The Employer will provide self-insurance on each automobile against collision and comprehensive damages. The Employer's net worth, as of May 6, 1983, is in excess of $721,000. In addition, the Employer will maintain its insurance policies in regard to public liability and property damage, at no cost to the Plan. It is represented that the Employer has agreed to add the Plan as loss payee on all insurance policies covering the Collateral, thus insuring the plan's secured interest in the Collateral.

5. Arthur H. Bredenbeck (Mr. Bredenbeck), attorney-at-law, of Burlingame, California has been designated as the independent fiduciary with respect to the proposed transactions. Mr. Bredenbeck, a partner in the law firm of Carr, McClellan, Ingersoll, Thompson & Horn, has been in practice for approximately 20 years specializing in tax and estate and financial planning with special emphasis in qualified employees' retirement plans. In addition, Mr. Bredenbeck has supervised the installation of more than twenty-five of such plans. Mr. Bredenbeck represents that he understands his fiduciary responsibilities under the Act. Mr. Bredenbeck has had no prior business relationships with the Employer or any of its officers or directors. Mr. Bredenbeck represents that after considering the proposed exemption and all supplementary information submitted, it is his opinion, that the Loans described herein are of a desirable format, in the best interest to all concerned and clearly protective of the rights of the participants and beneficiaries of the Plan. Among Mr. Bredenbeck's duties will be to: (1) Examine the Plan's portfolio for propriety and diversification; (2) examine the substance of the transactions to ensure that they are in the best interests of the Plan participants; (3) ensure that the conditions of the Loans set forth in this application are adhered to; and (4) enforce, if necessary, any collection on default of the Loans. Mr. Bredenbeck will require the Employer to provide additional collateral, when, in his opinion, the Collateral is less then 200% of the remaining balances of the Loans. In addition, Mr. Bredenbeck will require the immediate repayment of any Loan for an automobile which is traded in or sold. Further, he will require in the case of an automobile held as security for a Loan which is damaged in an accident that: (1) Such Loan be immediately reduced by the value of such automobile, or (2) another undamaged automobile of equal value be posted as additional security, or (3) an amount of cash equal to the estimated cost of repairs be deposited with the Trustee and such repairs be immediately ordered completed by the Employer.

6. In summary, the applicant represents that the Loans meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) Mr. Bredenbeck has determined that the transactions are appropriate for the Plan and are in the best interests of the Plan's participants and beneficiaries;

(b) The Loans will at all times be secured by the Collateral, with a value of at least 200% of the amount of the Loans; and

(c) Each Loan will be limited to the lessor of $5,000 or 10% of the Plan's assets and the aggregate outstanding balances of the Loan at no time will exceed the lesser of $350,000 or 25% of the fair market value of the assets of the Plan.

For Further Information Contact: Horace C. Green of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

T-Z Associates, Inc. Profit Sharing Plan and the T-Z Associates, Inc. Money Purchase Pension Plan (the Plans) Located in Towson, Maryland

[Application Nos. D-4522 and D-4523]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, 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 certain stock, as described below, by the Plans to T-Z Associates, Inc. (the Employer), the sponsor of the Plans, provided the price received by the Plans is no less than the fair market value of the stock on the date of sale.

Summary of Facts and Representations

1. Mr. and Mrs. Thomas and Martha Zizic (the Zizics) are the only participants in the Plans, the sole trustees of the Plans, and the only employees of the Employer. As of October 31, 1980, the profit sharing plan had net assets of $29,425 and the money purchase pension had net assets of $24,716.

2. Since 1973, the Plans have purchased from unrelated parties a combined total of 36,523 shares of common stock (the Stock) of Courseware, Inc. (Courseware), an unrelated party with respect to the Plans. Courseware is a closely held corporation engaged primarily in the business of instructional research and service. As of June 1981, Courseware had 728,758 shares of Stock issued and outstanding. The Stock is not traded on any securities market. As of October 31, 1980, the Stock, valued at book value, constituted approximately 62.3% of the assets of the profit sharing plan and 58.3% of the assets of the money purchase pension plan. Since purchase the Stock has never paid a dividend.

3. The Plans have acquired the Stock at prices negotiated between the Plans and the third party sellers. Since May 1978, the purchase price of the Stock has ranged between $1.25 to $2.00 per share. The profit sharing plan's most recent purchase was on October 10, 1979, for $1.25 per share and the money purchase pension plan's most recent purchase was on April 30, 1979, for $1.25 per share.

4. The applicant requests an exemption to allow the Plans to sell the Stock to the Employer for cash. Mr. Timothy N. Wisthoff, an independent certified public accountant located in Baltimore, Maryland, has appraised the Stock and, as of May 31, 1983, determined that the Stock had a fair market value of $2.93 per share. In arriving at his determination Mr. Wisthoff reviewed many factors. Specifically, Mr. Wisthoff examined: (1) The projected adjusted book value, the projected earnings per share, the projected income and other relevant financial data concerning Courseware; (2) the management of Courseware; (3) a limited offering by Courseware of stock in June, 1978 at a price of $2.50 per share, and an examination of Courseware's operating results since that time; and (4) prior negotiations between Courseware's board of directors and a prospective buyer in October, 1982, where the board indicated it might accept a price of $4.00 to $5.00 per share, but no transaction was effected.

5. The Plans will not incur any sales commissions with respect to the sale. The sale will enable the Plans to reinvest the proceeds in income producing investments.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 4975(c)(2) of the Code because: (a) The Zizics are the only participants in the Plans and they request that the transaction be consummated; (b) the sale will be a one-time transaction for cash; (c) the Plans will not incur any expenses with regard to the sale; and (d) the Plans will receive an amount for the stock not less than its fair market value as of the date of sale.

Notice to Interested Persons: Because the Zizics are the only participants in the Plans there is no need to distribute notification to interested persons. Comments and hearing requests are due within 30 days of the date of publication of this notice in the **Federal Register.**

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attentioin 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/or 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/or 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/or 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 exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or 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.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 19th day of July 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-19938 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences, Subcommittee for Stratigraphy and Paleontology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Stratigraphy and Paleontology Subcommittee).

Date and Time: August 9-11, 1983; 8:30 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 602, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, telephone: (202) 357-7958.

Purpose of Committee: To provide advicer and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Officer 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.

July 19,1983.

[FR Doc. 83-19936 Filed 7-21-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289-OLA; ASLBP No. 83-491-04 OLA]

Metropolitan Edison Co., et al.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721 and 2.772(j) of the Commission's Regulations, as amended, and the Commission's Order dated July 15, 1983, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Metropolitan Edison Co., et al., Three Mile Island Nuclear Station, Unit No. 1, Facility Operating License No. DPR-50

This Board is being constituted pursuant to a notice published by the Commission on May 31, 1983 in the **Federal Register** (48 FR 24231-32) (amended June 14, 1983 (48 FR 27328)), "Issuance of Amendment to Facility Operating Licenses and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing." The amendment requested would revise the Technical Specifications to recognize steam generator tube repair techniques, other than plugging, provided such techniques are approved by the Commission.

The Board is comprised of the following administrative judges:

Sheldon J. Wolfe, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. David L. Hetrick, Professor of Nuclear Engineering, University of Arizona, Tuscon, Arizona 85721

Dr. James C. Lamb, III, Department of Environmental Sciences and Engineering, University of North Carolina, Chapel Hill, North Carolina 27514

Issued at Bethesda, Maryland, this 15th day of July, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-19909 Filed 7-21-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-76, issued to Pacific Gas and Electric Company (the licensee), for operation of the Diablo Canyon, Unit 1, nuclear power plant located in San Luis Obispo County, California.

The amendment would update sections 3.8.2.1 and 3.8.2.2 of the facility Technical Specifications to reflect the installation of two new 7.5 KVA inverters to increase the capacity of the Class IE instrument AC system from 30 KVA to 45 KVA in accordance with the licensee's application dated December 19, 1982.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations, 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve a significant hazards consideration (48 FR 14870). One such example is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, for example, a more stringent surveillance requirement.

The proposed amendment, which increases the required capacity of the inverters from 30 KVA to 45 KVA, constitutes an additional limitation than that is currently required by the Technical Specifications. Therefore, based on this consideration and the criteria mentioned above, we have made a proposed determination that this amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn.: Docketing and Service Branch.

By August 22, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any persons whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance withe Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene in the proceeding which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Pubic Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Philip A. Crane, Jr., Esq., Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Berry and French, P.C., Attn: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85016, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 19, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 15th day of July, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-19910 Filed 7-21-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-266]

Wisconsin Electric Power Co.; Point Beach Nuclear Power Plant, Unit No. 1; Availability of Draft Environmental Statement

Notice is hereby given that a Draft Environmental Statement (DES) (NUREG–1011) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the repair of steam generators at the Point Beach Nuclear Power Plant, Unit No. 1 which is located in the Town of Two Creeks, Manitowoc County, Wisconsin.

This Draft Environmental Statement addresses the environmental impacts of the proposed steam generator repairs and alternatives thereto.

This DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the Documents Department Library, University of Wisconsin-Stevens Point, Stevens Point, Wisconsin and the Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. The Draft Environmental Statement is also being made available at the Bay Lake Regional Planning Commission, University of Wisconsin-Green Bay, Socio-Ecology Building, Suite 450, Green Bay, Wisconsin 54302. Requests for copies of the DES (NUREG–1011) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State and specified local agencies are being provided with copies of the DES (local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the University of Wisconsin-Stevens Point, Stevens Point, Wisconsin and the Joseph P. Mann Public Library, Two Rivers, Wisconsin. After consideration of comments submitted with respect to the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register**. Comments are due by September 6, 1983.

Comments on this report from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 15th day of July, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-19912 Filed 7-21-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co. et al. (Trojan Nuclear Plant); Exemption

I

Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power & Light Company (the licensee) are the holders of Facility Operating License No. NPF-1 which authorizes the operation of the Trojan Nuclear Plant (the facility) at reactor power levels not in excess of 3411 megawatts thermal. The facility consists of a Westinghouse Electric Corporation designed pressurized water reactor located at the licensee's site in Columbia County, Oregon.

The license is subject to all rules and regulations of the Commission.

II

10 CFR 50.48, "Fire protection," and Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979" set forth certain specific fire protection features required to satisfy the General Design Criterion related to fire protection (Criterion 3, Appendix A to 10 CFR 50).

Section III.G. of Appendix R requires fire protection for equipment important to safe shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire detectors, and separation of safety trains (III.G.2) or alternative safe shutdown equipment free of the fire area (III.G.3). The objective of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1).

III

By letter dated April 27, 1983, the licensee requested an exemption from Section III.G.2 of Appendix R for the Fuel and Auxiliary Buildings, elevation 45-feet, to the extent that it requires total area automatic fire suppression and detection, and complete one-hour fire rated barriers.

In its letter, and a supplemental letter dated June 30, 1983, the licensee also proposed several fire protection enhancements for this area. By letter dated June 7, 1983, the licensee requested an additional 60 days to complete these proposed fire protection modifications.

The acceptability of these requests is addressed below.

IV

The auxiliary and fuel building (elevation 45-feet) is a large open floor area with a 15-foot high ceiling. The ceiling, walls and floor are of concrete construction.

This area contains the redundant component cooling water pumps and the redundant service water booster pumps. The cabling for each pump is routed in open cable trays and conduit. The cable trays and conduit are routed along the ceiling. The component cooling water pumps are separated from each other by 14 feet. The third component cooling water pump is separated from both the other two component cooling water pumps by greater than 20 feet. The redundant cabling associated with the pumps is routed in open cable trays separated by 5 feet. By letter dated June 30, 1983, the licensee committed to enclose the "C" component cooling water cabling in a one-hour fire rated barrier.

The redundant sets of service water booster pumps are separated by 24 feet. The redundant cabling associated with the pumps is routed in open cable trays separated by 9 feet. By letter dated April 27, 1983, the licensee committed to enclose one division of cables in a one-hour fire rated barrier.

Ionization smoke detectors have been installed near each component cooling water and service water booster pump to provide localized early warning detection in these two areas. Manual fire suppression capability is provided by standpipe hose stations and portable fire extinguishers.

The in-situ combustibles in the Auxiliary and Fuel Building consist of lubrication oil and cable insulation. Each component cooling water pump contains 2 gallons of oil and each service water booster pump contains 1.6 quarts of oil. The lubrication oil has an ignition temperature of 500°F. Each pump has a base plate that is capable of containing the total amount of oil contained in a pump in the event of a spill.

The fire area has a light fuel load of approximately 16,000 BTU/sq. ft. which corresponds to a fire severity equivalent to 12 minutes on the ASTM E-119 standard time temperature curve.

The licensee also has committed to install partial automatic water spray systems to protect the component cooling water pumps, service water booster pumps and associated cabling in the area of the pumps. The licensee justifies the alternative on the basis that: (1) The in-situ fuel load is low, (2) partial sprinkler protection is provided, and (3) smoke detection is provided.

This area does not comply with Section III.G because redundant cables are not completely enclosed in a one-hour barrier throughout the area, and total area suppression and detection are not provided. Section III.G requires suppression and detection systems throughout the protected area to prevent a fire adjacent to the protected components from becoming large enough to overwhelm the partial suppression system's capability prior to its operation. In this area, it is our opinion that the amount of in-situ and anticipated transient combustible materials could not cause a fire of sufficient magnitude to overwhelm the partial sprinkler systems. However, if this did occur, the one-hour rated fire barriers and existing separation between divisions will provide additional assurance that one train will be maintained free of fire damage in the time interval required for the fire brigade to respond and manually extinguish the fire.

Based on the above evaluation, with the proposed modifications, the level of protection provided for the Auxiliary and Fuel Building (45-foot level) provides a level of fire protection

equivalent to the technical requirements of Section III.G and, therefore, the exemption should be granted.

By letter dated June 7, 1983, the licensee requested additional time (60 days) to complete the fire protection improvements proposed. By way of background, the licensee earlier requested a more extensive exemption from Section III.G.2 for this same fire area which was denied on December 14, 1982. In that denial, however, licensee was granted additional time (until facility startup for fuel cycle 6, approximately July 15, 1983) to implement modifications to meet the requirements of III.G.2.

The licensee states that: Significant construction resources are presently being expended on safety improvements to the pressurizer safety and relief discharge piping in response to post-TMI safety requirements contained in NUREG-0737; that this activity is a pacing item for plant startup; and that the fire protection modifications can be implemented during normal plant operation without degrading existing fire protection features for this area.

Manual fire suppression capability for this area is provided by standpipe hose stations and portable fire extingushers, and localized ionization smoke detectors are installed. This provides acceptable fire protection for the interim.

In consideration of the above, the licensee's request for additional time is acceptable and is approved. The fire protection improvements for this ara must be completed by not later than 60 days following plant startup for fuel cycle 6 (approximately September 15, 1983).

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemptions requested by licensee's letters as referenced and discussed in III. and IV. above are authorized by law, will not endanger life or property or the common defense and security, are otherwise in the public interest, and are hereby granted.

The Commission has determined that the granting of these exemptions 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 this action.

A copy of the licensee's letters related to this action are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 SW. 10th Avenue, Portland Oregon 97205.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 18th day of July, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing.

[FR Doc. 83-19911 Filed 7-21-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-029]

Yankee Atomic Electric Co., Systematic Evaluation Program; Availability of the Final Integrated Plant Safety Assessment Report for the Yankee Nuclear Power Station

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Final Integrated Plant Safety Assessment Report (IPSAR) (NUREG-0825) related to the Yankee Atomic Electric Company's (licensee) Yankee Nuclear Power Station located in Rowe, Massachusetts.

The Systematic Evaluation Program (SEP) was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. This report documents the review completed under the Systematic Evaluation Program for the Yankee Plant. Areas in the report identified as requiring further analysis or evaluation and required modifications for which design descriptions have not yet been provided by the licensee to the NRC will be reviewed and supplements to the Final IPSAR will be issued addressing those items. The review provided for: (1) An assessment of the significance of differences between current technical positions on selected safety issues and those that existed when the Yankee Plant was licensed, (2) a basis for deciding how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety when all supplements to the IPSAR have been issued. The report also addresses comments and recommendations made by the Advisory Committee on Reactor Safeguards (ACRS) in connection with its review of the Draft Report, issued in February 1983. These comments and recommendations, as contained in a report by the ACRS dated April 19, 1983, and the NRC staff's related response are included in Appendix J of this report.

Pursuant to 10 CFR 50.71(e)(3)(ii), the licensee is required within 24 months after receipt of the letter dated July 12, 1983, from the Director of the Office of Nuclear Reactor Regulation to the licensee transmitting the Final IPSAR, to file a complete Final Safety Analysis Report (IPSAR), which is up to date as of a maximum of six months prior to the date of filing the revision.

The Final IPSAR is being made available at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301 for inspection and copying. Copies of this Final Report (Document No. NUREG-0825) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Director, Division of Technical Information and Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland, this 12th day of July, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-19914 Filed 7-21-83; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information use by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary

draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D8, "Safety-Related Instrumentation and Control Systems," has been developed. The working group, consisting of Mr. C. Karpeta from Czechoslovakia; Mr. F. Reish from Sweden; Mr. J. L. Petrie from the United Kingdom; and Mr. J. Gallagher (Westinghouse Electric Corporation) from the U.S.A., developed the intial draft of this guide from an IAEA collation. This draft was subsequently modified by the IAEA Technical Review Committee for Design and the Senior Advisory Group, and we are now soliciting public comment on a modified draft (Rev. 8, dated April 27, 1982). Because of the lack of comments received through a previous notice in the **Federal Register** on April 22, 1983, we are again soliciting public comment on this draft safety guide. Comments received by the Director, Office of Nuclear Regulatory Research, Washington, D.C. 20555 by September 6, 1983, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C. this 15th day of July 1983.

For the Nuclear Regulatory Commission.

Frank Gillespie,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-19013 Filed 7-21-83; 8:45 am]

BILLING CODE 7590-01-M

SELECTIVE SERVICE SYSTEM

Senior Executive Service Performance Review Board; Appointment of Members

Announcement is made of the appointment of the following persons as members of the SES Performance Review Board for the Selective Service System: R. F. Wisniewski, Associate Director, Office of Administration, Chairman; Colonel James D. Delk, Chief of Staff; David A. Cox, Associate Director, Office of Information Systems; Peter Stein, Deputy to the Assistant to the Secretary of the Army; and William M. Frailey, Chief, U.S. Army Civilian Personnel Center.

The announcement of September 22, 1982 (47 FR 42667) is cancelled.

Dated: July 18, 1983.

Thomas K. Turnage,

Director.

[FR Doc. 83-19844 Filed 7-21-83; 8:45 am]

BILLING CODE 8015-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Office: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

New

Procurement
No. 270–278

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance the data on procurement and contracting.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: July 18, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-19862 Filed 7-21-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Revision

Rules 19d–1 (b) through (i)—Notices by Self-Regulatory Organizations for Final Disciplinary Actions, Denials, Bars, or Limitation respecting Membership, Association, Participation or Access to Services and Summary Suspensions. No. 270–242

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed amendments to Rules 19d–1 (17 CFR 240.19d–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) which requires self-regulatory organizations (SROs) to report to the Commission notice of final disciplinary actions and prescribes the content of such notices. The proposed amendments would permit SROs to submit to the Commission plans specifying the circumstances under which certain minor disciplinary infractions would not be reported to the Commission pursuant to the rule, or would be reported in abbreviated form.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: July 15, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-19845 Filed 7-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19954; File No. SR-OCC-83-13]

Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corp. ("OCC")

July 18, 1983

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 30, 1983, OCC filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends several provisions of OCC's Interpretations and Policies under OCC Rule 604(c) relating to OCC's guidelines for approving foreign and domestic banks and trust companies as issuers of letters of credit for OCC margin

purposes. First, the proposal amends OCC's guideline that a non-U.S. institution have a Federal or State Branch or Agency (as defined in Section 1 of the International Banking Act of 1978, 12 U.S.C. 3101 (1980)) located in New York City or Chicago. Under the new proposal, the foreign bank must have a branch or agency anywhere in the United States. In its filing, OCC states that the liberalized guideline will continue to ensure that a foreign institution issuing letters of credit in the United States to OCC will be subject to domestic regulation. OCC also states that the proposed rule change will continue to ensure that OCC will be able to reach the foreign bank's assets and will be able to litigate claims against the bank in U.S. courts.

Second, OCC proposes to amend its current guideline that a non-U.S. institution cannot issue letters of credit in an aggregate amount exceeding 10% of the institution's shareholders' equity for a single clearing member. Under the revised guideline, OCC proposes to increase the limitation to 15% of the issuing institution's equity and to apply the restriction to both U.S. and non-U.S. institutions. In its filing, OCC notes that the proposed 15% limit is consistent with current federal regulation of national banks by the Comptroller of the Currency. *See* 12 U.S.C. 84(a); 12 CFR 7.1160 (1983). OCC believes that a lower limit for non-U.S. institutions is unwarranted.

Third, the proposed rule change amends OCC's guideline that a non-U.S. institution must have a "P-1" rating from Moody's Investor Service and/or an "A-1" rating by Standard & Poor's Corporation on its commercial paper and/or other short-term obligations. Under the proposal, in the event that a non-U.S. institution does not have a rating on commercial paper or other short-term obligations, OCC has the discretion to accept letters of credit from such an institution if: (1) Any commercial paper or short-term obligations issued by the foreign institution's parent or an affiliated entity has a "P-1" rating from Moody's Investor Service or an "A-1" rating from Standard & Poor's; (2) any such commercial paper or short-term obligations issued by non-affiliated entities and supported or guaranteed by the non-U.S. institution has such a rating; (3) the institution, its parent or an affiliated entity has an "Aaa" rating from Moody's Investor Service and/or an "AAA" rating from Standard & Poor's on its long-term obligations; or (4) it has been approved by OCC's Margin Committee as a "P-1" or "A-1" equivalent institution.

OCC states in its filing that ratings by independent rating services help OCC to determine whether a foreign institution qualifies as an issuer of letters of credit for OCC margin purposes. Although OCC believes that it is appropriate to require such an institution to have high ratings for commercial paper or other short-term obligations, OCC considers its previous guideline to have been unduly restrictive. Several large, well-capitalized foreign financial institutions have been unable to qualify under the guideline because they do not issue commerical paper and consequently do not have commercial paper ratings. Accordingly, OCC proposes to expand the list of foreign institutions that qualify to issue letters of credit to satisfy OCC margin requirements to include non-U.S. institutions meeting the financial criteria stated above.

OCC states that the proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended, in that it is intended to assure the safeguarding of securities and funds in the custody or control of OCC or for which OCC is responsible, by improving the standards for acceptance of letters of credit.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-19847 Filed 7-21-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12588]

GTE Corporation; Application and Opportunity for Hearing

July 18, 1983.

Notice is hereby given that GTE Corporation, a New York corporation (the "Corporation") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "1939 Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Irving Trust Company, a New York trust company (the "Bank"), under two indentures which are qualified under the 1939 Act and one indenture not so qualified are not so likely to involve a material conflict of interest as to make it necessary in the public interest or the protection of investors to disqualify the Bank from acting as Trustee under any of said indentures.

Section 310(b) of the Act provide, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of such subsection (1), there may be excluded from the operation of this provision another indenture or indentures under with other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeships under the indentures are not so likely to involve a material conflict of interest as to make it necessary to disqualify such trustee

from acting as trustee under any such indentures.

The Company alleges that:

1. The Bank, as Trustee, has entered into Indentures dated March 15, 1983 (the "1983 Indenture"), April 15, 1977 (the "1977 Indenture"), May 15, 1974 (the "1974 Indenture"), March 1, 1963 (the "1963 Indenture") with the Corporation pursuant to which there have been issued $100,000,000 aggregate principal amount of the Corporation's Five-Year Extendible Notes (the "1983 Notes"), $125,000,000 aggregate principal amount of the Corporation's 8.45% Sinking Fund Debentures Due 2002 (the "1977 Debentures"), $75,000,000 aggregate principal amount of the Corporation's 9⅜% Sinking Fund Debentures due 1999 (the "1974 Debentures") and $50,000,000 aggregate principal amount of the Corporation's 4½% Sinking Fund Debentures due 1988 (the "1963 Debentures"), respectively. The 1983 Indenture was filed as Exhibit 4 to the Registration Statement No. 2–82197 under the Securities Act of 1933, as amended (the "1933 Act") and has been qualified under the 1939 Act. The 1974 Indenture was likewise filed as Exhibit 2–2 to Registration Statement No. 2–50878 under the 1933 Act and has been qualified under the 1939 Act. The 1963 Indenture was likewise filed as Exhibit 4–2e to Registration Statement 2–21123 under the 1933 Act and has been qualified under the 1939 Act. The 1977 Indenture was not qualified under the 1939 Act on the basis of the provision in Section 304(b) relating to securities sold without registration in reliance on Section 4 of the 1933 Act. The 1977 Indenture was filed as an exhibit to the Form T–1 of the Bank which was filed as Exhibit 26 to Registration Statement No. 2–82197 relating to the 1983 Notes.

2. Under Section 8.08 of the 1963 Indenture and Section 8.08 of the 1974 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1977 Indenture if the Corporation shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1963 Indenture, the 1974 Indenture and the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

3. The Corporation is not in default under the 1963 Indenture, the 1974 Indenture, the 1977 Indenture or the 1983 Indenture. The Corporation's obligations under the 1963 Debentures, the 1974 Debentures, the 1977 Debentures and the 1983 Notes, are wholly unsecured and rank equally *pari passu*.

4. Such differences as exist between the 1963 Indenture, the 1974 Indenture, and the 1977 Indenture, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

The Corporation has waived (a) notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under Rule VIII(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Room 1024, Washington, D.C. 20449.

Notice is further given that any interested person may, not later than August 12, 1983 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–19846 Filed 7–21–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13389; 812–5514]

Institutional Investors Capital Reserve Fund, Inc., et al.; Filing of Application

Notice is hereby given that Institutional Investors Capital Reserve Fund, Inc. ("Reserve Fund"), Institutional Investors Fixed Income Fund, Inc. ("Fixed Income Fund"), and Institutional Investors Option Income Fund, Inc. ("Option Fund"), (hereinafter referred to collectively as "Applicants"), 200 Park Avenue, New York, 10166, New York corporations, filed a joint application on March 30, 1983, and an amendment thereto on July 5, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting Applicants from the provisions of Sections 10(a), 15(c), 17(a)(1), 20(a), 22(d) and 25(d) of the Act and Rule 20a–1 promulgated thereunder, and exempting Fixed Income Fund and Option Fund from the privisions of Section 22(e) of the Act, and exempting Reserve Fund, a "money market fund", from the provisions of Section 2(a)(41) of the Act and Rule 2a–4 and 22c–1 thereunder to the extent necessary to permit it to value its portfolio investments using the amortized cost method. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of those provisions thereof from which exemption is being sought.

Applicants represent that all of the capital stock of each Applicant is to be owned exclusively by state and federally chartered New York savings banks, successors to such banks by means of conversion to federal charter and/or merger, and employee benefit plans participated in by such institutions ("eligible savings institutions"). The application states that there are currently approximately 100 eligible savings institutions, with assets ranging from $52 million to $9 billion. Applicants state that each Applicant is an open-end, diversified investment company that has been created for a different investment purpose and, together with Institutional Investors Capital Appreciation Fund, Inc. ("Capital Fund"), formerly Institutional Investors Mutual Fund, Inc., a registered open-end investment company formed in 1953, it is intended that Applicants shall form part of an expanded range of pooled investment media available to the eligible savings institutions. According to the application, approximately 45 eligible savings institutions now own shares of Capital Fund, whose net asset value at March 22, 1983, totalled $120.5 million.

Applicants state that the Commission has previously granted exemptions from Sections 10(a), 15(c), 17(a)(1), 20(a), 22(d), 22(e) and 24(d) of the Act and rule 20a–1 promulgated thereunder to Capital Fund by orders dated April 14, 1953, August 8, 1955, and July 5, 1960 (Investment Company Act Release Nos. 1856, 2213, and 3065, respectively). Applicants submit that substantially the same circumstances which made these

exemptions appropriate in the case of Capital Fund are present in the case of each Applicant and thus warrant the extension of those exemptions to Applicants.

Applicants state that they have been created by New York savings banks as part of the banks' effort to return to profitability in today's economic climate. Applicants are represented to have been organized so that eligible savings institutions may cooperatively invest in securities in which they lawfully may invest individually so as to take advantage at reasonable cost of the greater expertise in specific types of securities which the ownership of larger amounts of such types of securities may provide.

Applicant represent that each Applicant will operate under the same circumstances and be subject to the same restrictions which apply to Capital Fund: (1) The certificate of incorporation of each Applicant provides that the investments of the Applicant be limited as provided by the New York State Banking Law and that ownership and transferability of each Applicant's shares be limited to eligible savings institutions; (2) the certificate of incorporation of each Applicant provides that the board of directors shall consist exclusively of trustees or senior officers of eligible savings institutions, or officers of the Applicant; (3) pursuant to its by-laws, each Applicant submits itself to supervision and periodic examination by the New York State Banking Department at such times and in such manner as the Superintendent of Banks shall provide; (4) each Applicant will enter into a contract for investment advisory, custodial, transfer agent and registrar service with Savings Banks Trust Company, organized under the New York Law the stock of which is owned exclusively by eligible savings institutions; (5) the certificate of incorporation of each Applicant permits institutions, which would have been eligible to invest in the Applicants as New York savings banks, to continue to be eligible if they have converted to federal charter by merger or otherwise pursuant to recent changes in federal law; and (6) the certificate of incorporation of each Applicant would also permit ownership of its shares by a pension trust, fund, plan or agreement participated in by one or more savings institutions to provide retirement, death or disability benefits for any or all of its active officers and employees. Each Applicant undertakes that it will advise eligible savings institutions that a condition of purchase of shares of the Applicant is that the purchasing eligible savings institution not advertise to the depositing public that any individual depositor will receive the benefits of investment in a mutual fund by reason of the eligible savings institution having invested in the Applicant.

Applicants submit that, given the relationship of each Applicant to its shareholders and to its adviser, there can be little if any conflict of interest between them. Applicants represent that, like Capital Fund, they will be wholly-owned and managed by eligible savings institutions, and will conduct their operations within the statutory limitations and under the supervision of the New York State Banking Department. Applicants further submit that the limited number and investment expertise and sophistication of the eligible savings institutions participating in these funds will minimize the need for certain forms of regulation required of widely-held investment companies. Applicants submit that they are therefore applying pursuant to Section 6(c) of the Act for exemptions, each of which, other than the requested exemption from Section 2(a)(41) and Rules 2a–4 and 22c–1 with respect to Reserve Fund, has been previously granted to Capital Fund by the Commission. Applicants state that they believe the successful history of operations of Capital Fund during the past three decades demonstrates that it is appropriate, in the public interest and consistent with the protection of investors and the purposes of the Act, for the Commission to grant an order extending similar relief to Applicants.

Each Applicant agrees that the following conditions may be imposed by any order of the Commission granting exemptive relief from Section 17(a)(1) of the Act:

(a) That the investment advisor will prepare a written report for the board of directors of the Applicant evaluating any securities which may be offered in exchange for shares of the Applicant prior to authorization of such transaction by the board of directors of the Applicant;

(b) That each such transaction will be specifically approved by the board of directors of the Applicant prior to execution of such transaction;

(c) That each Applicant will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any such transaction occurs, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the securities purchased, the identity of the person on the other side of the transaction, the terms of the transaction, and the information or materials upon which the board of directors' action was taken;

(d) That the acquisition of any security by an Applicant pursuant to any such transaction will be consistent with the investment objectives and policies of the Applicant and, in the opinion of the board of directors, with the interests of the Applicant and its shareholders;

(e) That the terms of each such transaction will be reasonable and fair to the shareholders of the Applicant in the opinion of its board of directors and will not involve overreaching on the part of any person concerned; and

(f) That no commission, fee, spread or other renumeration will be received by any party in connection with the transaction.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In addition to the foregoing, the application states that the board of directors of Reserve Fund has determined that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling the fund to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Reserve Fund's net income as earned. The application states that the board of directors of Reserve Fund has concluded that, in light of its portfolio characteristics and absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and reflects the fair value of such securities. The application further states that Reserve Fund believes the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The application states that Reserve Fund expressly consents to the imposition of the following conditions in any order granting the relief it requests:

1. In supervising its operations and delegating special responsibilities involving portfolio management to its investment adviser, the board of directors of Reserve Fund undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Reserve Fund's investment objectives, to stabilize the net asset value per share of its portfolio, computed for the purpose of distribution, repurchase and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance or records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) If the board of directors believes the extent of any deviations from Reserve Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten average portfolio maturity; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. Reserve Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Reserve Fund will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Reserve Fund will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above; and it will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Reserve Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risk, and which are of high quality as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Reserve Fund will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 12, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–19648 Filed 7–21–83; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Reserve Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) Quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, Reserve Fund agrees that, if the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity in excess of 120 days, it will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03–0161]

United Financial Services Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of United Financial Services Corporation, 3871 Plaza Drive, Fairfax, Virginia 22030, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

President, Director 15 percent
James M. Lee, Jr., 530 Wilder Place, Shreveport, LA 71106
Secretary, Treasurer, General Manager, Director, 15 percent
Richard F. Kennedy, 3817 N. Chesterbrook Road, Arlington, VA 22207
Director
Lyn H. Kennedy, 3817 N. Chesterbrook Road, Arlington, Va 22207

There will be no more than ten beneficial owners of the Applicant's stock and no one, other than the two individuals above, will own as much as 10 percent.

The Applicant has one class of stock authorized: 100,000 shares of common stock. Initially, 650 shares will be issued with a resultant private capital of $521,300. Applicant will conduct its operations principally in the Commonwealth of Virginia.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders of the Applicant, and the probability of

successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Fairfax, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 18, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-19022 Filed 7-21-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Diego will hold a public meeting at 9 a.m., on 19 August 1983, at the Federal Building, 880 Front Street, Room 2-S-14, San Diego, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call George P. Chandler, Jr., District Director, U.S. Small Business Administration, 880 Front Street, Room 4-S-29, San Diego, California (714) 293-5430.

Jean M. Nowak,

Director, Office of Advisory Councils.

July 18, 1983.

[FR Doc. 83-19023 Filed 7-21-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 10:00 a.m., on September 6, 1983, Tuesday at the Community Room, Arco Plaza, 505 South Flower Street, Los Angeles, California 90071, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present. Luncheon will be at 12:00 noon.

For further information, write or call Gerold Y. Morita, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California (213) 798-2977.

Jean M. Nowak,

Director, Office of Advisory Councils.

July 18, 1983.

[FR Doc. 83-19024 Filed 7-21-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On July 19, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, N.W., Washington, D.C. 20220.

Bureau of Government Financial Operations

OMB Number: 1510-0033
Form Number: POD 1672
Title: Application of Undertaker for Payment of Funeral Expenses from Funds to the Credit of a Deceased Depositor

OMB Number: 1510-0031
Form Number: TFS 6177
Title: Disagreement Letter

OMB Number: 1510-0028
Form Number: POD-134
Title: Release Form

OMB Number: 1510-0030
Form Number: POD 1690
Title: Certification of Bill from Undertaker

OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Internal Revenue Service

OMB Number: 1545-0171
Form Number: 4469
Title: Computation of Excess Hospital Insurance Benefits Tax Credit

OMB Number: 1545-0350
Form Number: 6561
Title: Payer Summary of Form W-2P Magnetic Media Pension Information

OMB Number: 1545-0383
Form Number: 6560
Title: Employer Summary of Form W-2P Magnetic Media

OMB Number: 1545-0333
Form Number: Letters 63C & 63SC
Title: Advise to Payer that Form W-2 or W-2P Not Received

OMB Number: 11545-0168
Form Number: 4361
Title: Application for Exemption from Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science

OMB Number: 1545-0072
Form Number: 2119
Title: Exchange of Principal Residence
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,

Departmental Reports Management Office.

July 19, 1983.

[FR Doc. 83-19025 Filed 7-21-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 142
Friday, July 22, 1983

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).

CONTENTS

1

CIVIL AERONAUTICS BOARD

[M-384, Amdt. 1]

Change of Status, Addition and Closure of Items at the July 14, 1983 Meeting.

TIME AND DATE: 9:30 a.m., July 14, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

19. Docket 40459, United States-Brazil/Argentina All-Cargo Exemption Proceeding. Dockets 41238, 41258, 41473, 41446, Applications of American Airlines, Inc., Pan Aero International and Arrow Air, Inc. for U.S.-Brazil/Argentina all cargo exemption authority. (Memo 1914, BIA, OGC)

30. U.S.-Scandinavia Charter Programs. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1070-83 Filed 7-20-83; 3:56 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, July 29, 1983.

PLACE: 2033 K Street NW., 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-1069-83 Filed 7-20-83; 2:35 pm]

BILLING CODE 6351-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, July 18, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,468-L (Amended): The Mission State Bank & Trust Company, Mission, Kansas

Case No. 45,730-L: United American Bank in Hamilton County, Chattanooga, Tennessee

By the same majority vote, the Board further determined that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: July 18, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1067-83 Filed 7-20-83; 2:02 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 18, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Manilabank California, a proposed new bank to be located at 350 South Figueroa Street, Los Angeles, California, for Federal deposit insurance.

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

Extension of time to respond to an appeal from an initial denial of a request for records pursuant to the Privacy Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5) U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: July 18, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1066-83 Filed 7-20-83; 2:02 pm]

BILLING CODE 6714-01-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Wednesday, July 27, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., 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: July 20, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1065-83 Filed 7-20-83; 10:25 am]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, July 27, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda*: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed revisions to the Federal Reserve Banks' policy regarding mandatory retirement based on age.

Discussion Agenda:

2. Proposed final revision of Regulations G (Securities Credit by Persons Other Than Banks, Brokers, or Dealers) and U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks). (Proposed earlier for public comment; Docket Nos. R-0457 and R-0458)

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: July 20, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1064-83 Filed 7-20-83; 10:25 am]

BILLING CODE 6210-01-M

7

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, August 9, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:

a. Certain plastic, light-duty screw anchors (Docket No. 951).

b. Certain poultry cut-up machines (Docket No. 954).

5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1072-83 Filed 7-20-83; 3:55 pm]

BILLING CODE 7020-02-M

8

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Tuesday, August 2, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:

a. Certain office desk accessories and related products (Docket No. 949).

5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1071-83 Filed 7-20-83; 3:55 pm]

BILLING CODE 7020-02-M

9

POSTAL SERVICE

Notice of a Meeting

The Board of Governors of the United States Postal Service, Pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1:30 p.m. on Monday, August 1, 1983, in Minneapolis, Minnesota, and at 8 a.m. on Tuesday, August 2, in Room 127 of the Minneapolis Post Office, 100 South First Street, Minneapolis, Minnesota. As indicated in the following paragraph, the August 1 meeting is closed to public observation. The August 2 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

At its meeting on July 8, 1983, the Board voted in accordance with the provisions of the Sunshine Act to close to public observation its meeting scheduled for August 1. (See 48 FR 32429, July 15, 1983.) The agenda item of the meeting to be closed concerns strategic planning in regard to anticipated collective bargaining negotiations involving parties to the 1981 National Agreements between the Postal Service and four labor organizations representing certain postal employees which are scheduled to expire in July of 1984.

Agenda

Monday Session, August 1 (Closed)

1:30 p.m.:

1. Strategic Planning—Collective Bargaining.

Tuesday Session, August 2 (Open)

8:00 a.m.

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current development concerning the Postal Service. Nothing that requires a decision by the Board is brough up under this item.)
3. Quarterly Report on Financial Performance.
   (Mr. Coughlin, Senior Assistant Postmaster General, Finance Group, will present the quarterly summary of financial performance.)
4. Quarterly Report on Service Performance.
   (Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary on service performance.)
5. Review of Legislative Matters and Government Relations.
   (Mr. Horgan, Assistant Postmaster General, Government Relations, will report on current legislative matters.)
6. Update of 5-Year Plan.
   (Mr. Cummings, Assistant Postmaster General, Planning, will brief the Board on the 5-Year Plan.)
7. Report of the Regional Postmaster General.
   (Mr. Carlin, Regional Postmaster General, will report on postal conditions in the Central Region.)
8. Proposed Capital Investments.
   (Projects presented: (a) San Bruno (CA) PDC Relocation. (b) 5,645 ½-Ton Route Delivery Vehicles.)
9. Consideration of a Tentative Agenda for the August 29-30, 1983, Meeting of the Board in Boston, MA.

David F. Harris,

Secretary.

[S-1063-83 Filed 7-20-83; 10:25 am]

BILLING CODE 7710-12-M

10

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

AGENCY: United States Synthetic Fuels Corporation.

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting session pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Section 4 and 5 of said Policy.

MATTERS TO BE CONSIDERED:

Remarks by Chairman
Approval of Minutes
Report of the President
Operations Report of the Executive Vice President
Consideration of Standard Terms and Conditions for the Competitive Coal Solicitation
Consideration of the Amendment to the Competitive Coal Solicitation
Report on the the Competitive Lignite Solicitation
Consideration of Final Environmental Monitoring Guidelines and Cool Water Project Environmental Monitoring Plan Outline
Consideration of the Recommended Comprehensive Strategy
Financial Interests of Directors
Consideration of the Cool Water Project
Other Matters That May Properly Come Before the Board
Resolution To Close Meeting

Closed Session, Room 403

Review of Western Shale Project Negotiation Strategy
Consideration of Other Projects Under Negotiation:
A. Cathedral Bluffs
B. Others

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

DATE AND TIME: July 28, 1983, at 9:30 a.m. (e.d.t.).

PLACE: Room 503, 2121 K Street NW., Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Legal Services Group, (202) 822-6336.

July 19, 1983.

U.S. Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

[S-1086-83 Filed 7-20-83; 10:25 am]

BILLING CODE 0000-00-M

federal register

Friday
July 22, 1983

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.

Arkansas: AR83-4049	July 15, 1983.
Delaware: DE82-3015	
Florida: FL83-1041; FL83-1042; FL83-1047; FL83-1048; FL83-1049; FL83-1050	June 24, 1983.
Illinois:	
IL83-2034, IL83-2035	Apr. 8, 1983.
IL83-2036	Apr. 15, 1983.
Minnesota:	
MN82-2064	Nov. 26, 1982.
MN83-2038	May 6, 1983.
Missouri: MO83-4047	June 24, 1983.
New Jersey: NJ83-3015; NJ83-3016	June 17, 1983.
New Mexico: NM83-4032	Apr. 15, 1983.
North Carolina: NC82-1027	Apr. 20, 1982.
Ohio: OH83-2040	May 13, 1983.
Pennsylvania: PA82-3017	Mar. 26, 1982.
Wisconsin: WI83-2012	Feb. 18, 1983.

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: AL80-1069 (AL83-1053)	June 6, 1980.
Nebraska: NE80-4038 (NE83-4052	May 16, 1980.
New York: NY81-3041 (NY83-3027)	July 17, 1981.
Texas: TX82-4052 (TX83-4053); TX78-4065 (TX83-4054; TX78-4065 (TX83-4055)	June 16, 1978.

Signed at Washington, D.C., this 15th day of July 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION P. 1

DECISION #AR83-4049-Mod. #2 48FR July 15, 1983 SEBASTIAN, CRAWFORD AND WASHINGTON COUNTIES, ARKANSAS	Basic Hourly Rates	Fringe Benefits
CHANGE(Sebastian & Crawford Cos.):		
ELECTRICIANS:		
ELECTRICIANS	$14.79	A
CABLE SPLICERS	15.04	A
LINE CONSTRUCTION:		
Linemen-Operator	14.04	A
Cable splicers	14.29	A
Powderman	90%JR	A
Truck driver	75%JR	A
Groundman	65%JR	A
FOOTNOTE:		
A - $3.74 + .80		

DECISION NO. DE83-3015 - MOD #5 (48 FR 4220 - January 28, 1982) STATE OF DELAWARE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	$17.92	2.48 +3%

DECISION NO. WI83-2012 - MOD. #2 (48 FR 7386 - February 18, 1983) Statewide, Wisconsin	Basic Hourly Rates	Fringe Benefits
Change:		
LINE CONSTRUCTION:		
Statewide:		
Linemen	$15.47	9½%+ .65

DECISION NO. FL83-1049 - MOD. # 1 (June 24, 1983 - 48 FR 29427) Broward and Palm Beach Counties in Florida	Basic Hourly Rates	Fringe Benefits
HIGHWAY CONSTRUCTION		
DELETE:		
POWER EQUIPMENT OPERATORS:		
ROLLER:		
Operator	$5.13	
TRACTORS:		
Operator	7.50	

DECISION NO. FL83-1050 - MOD. # 1 (June 24, 1983 - 48 FR 29427) Dade County, Florida	Basic Hourly Rates	Fringe Benefits
HIGHWAY CONSTRUCTION		
DELETE:		
TRUCK DRIVERS:		
Operators	$5.65	

MODIFICATION P. 2

DECISION NO. FL83-1041 - MOD. # 1 (June 24, 1983 - 48 FR 29423) Bay, Escambia, Gulf, Okaloosa, Santa Rosa, and Walton Counties in Florida	Basic Hourly Rates	Fringe Benefits
HIGHWAY CONSTRUCTION		
DELETE:		
TRUCK DRIVERS:		
Single Rear Axle	$6.00	

DECISION NO. FL83-1042 - MOD. # 1 (June 24, 1983 - 48 FR 29423) Calhoun, Franklin, Holmes, Jackson, Liberty, and Washington Counties in Florida	Basic Hourly Rates	Fringe Benefits
HIGHWAY CONSTRUCTION		
DELETE:		
POWER EQUIPMENT OPERATORS		
Guardrail Post Driver Erector	$4.50	
ADD:		
POWER EQUIPMENT OPERATORS		
Guardrail Post Driver Operator	$4.50	

DECISION NO. FL83-1047 Mod. # 1 (June 24, 1983 - 48 FR 29426) Brevard (excludes Cape Canaveral AP Station, Patrick AFB, Kennedy Space Flight Center, & Melabar Radar Site), Hillsborough, Indian River, Manatee, Martin, Orange, Osceola, Pinellas, Polk, St. Lucie, Sarasota, & Seminole Counties in Florida	Basic Hourly Rates	Fringe Benefits
HIGHWAY CONSTRUCTION		
DELETE:		
POWER EQUIPMENT OPERATORS:		
ROLLER:		
Operator	$4.71	

DECISION NO. FL83-1048 - MOD # 1 (June 24, 1983 - 48 Fr 29426) Charlotte, Collier, DeSota, Glades, Hardee, Hendry, Highland, Lee, Monroe, Okeechobee Counties in Florida	Basic Hourly Rates	Fringe Benefits
HIGHWAY CONSTRUCTION		
DELETE:		
POWER EQUIPMENT OPERATORS		
Roller:		
Operator	$ 6.00	

DECISION NO. IL83-2034 - MOD. #1
(48 FR 15410 - April 8, 1983)
Ford, Grundy, Iroquois, Kankakee, LaSalle, Livingston, McLean, Marshall, Putnam, & Woodford Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Unit:		
Power Equipment Operators:		
Area 3		
Add:		
Power Equipment Operators:		
Area 3:		
Group 1	$17.29	$2.35
Group 2	16.14	2.35
Group 3	14.43	2.35

Group 1 - Cranes; Hydro Crane; Shovels; Crane Type Backfiller; Tower Cranes - Mobile & Crawler & Stationary; Derricks & Hoists (3 Drum); Draglines; Drott Yumbo & Similar types considered as Cranes; Backhoe; Derrick Boats; Pile Driver and Skid Rigs; Clam Shell; Locomotive - Cranes; Road Pavers - Single Drum - Dual Drum - Tri-Batcher; Motor Patrol & Power Blades - Dumore - Elevating & Similar types; Mechanics; Central Concrete Mixing Plant Operator; Asphalt Batch Plant Operators and Plant Engineers; Gradall; Caisson Rigs; Skinner Scoop - Koehring Scooper; Dredges; Hoptoe; All Cherry Pickers; Work Boat; Boss Carrier; Helicopter; Dozer; Tournadozer; Tournapulls - all and Similar types; Multiple Unit Earth Movers; 25¢ per hr. for each scoop over one (1); Scoops; Pushcats; Endloaders; Asphalt Surfacing Machine; Slip Form Paver; Rock Crusher; Heavy Equipment Greaser (top greaser on spread); CMI, Auto Grade, CMI Belt Placer & 3 Track and Similar types; Side Booms; Starting Engineer on Pipeline; Asphalt Heater & Planer Combination (used to plane streets); Wheel Tractors (with dozer, hoe or endloader attachments); P.W.D. and Similar types; Blaw Knox Spreader and Similar types; Trench Machines; Pump Crete - Belt Crete - Squeeze Crete - screw type pumps and gypsum (operator will clean); Formless Finishing Machines; Flaherty Spreader or similar types; Screed Man on Laydown Machine; Vermeer Concrete Saw; Escalated Rate on Crane and Derrick Booms: .01¢ per hr., per ft. over 80 ft. including jib, $1.00 per hour over scale when crane or derrick boom is positioned 50' or more adjacent ground level or water level

Group 2 - Bulker & Pump; Power Launches; Boring Machine & Pipe Jacking Machine; Dinkeys; P-H One Pass Soil Cement Machines and similar types; Wheel Tractors (Industry or farm type - other); Back Fillers; Euclid Loader; Fork Lifts; Jeep w/Ditching Machine or other attachments; Tunneluger; Automatic Cement & Gravel Batching Plants; Mobile Drills - Soil Testing and similar types; Pugmill with Pump; All (1) and (2) Drum Hoists; Dewatering System; Straw Blower; Hydro-Seeder; Boring Machine; Hydro-Boom; Bump Grinders (self-propelled); Assistant Heavy Equipment Greaser; Apsco Spreader; Tractors (track-type) without Power Units Pulling Rollers; Rollers on Asphalt - Brick or Macadam; Concrete Breakers; Concrete Spreaders; Cement Strippers; Cement Finishing Machines & CMI Texture & Reel Curing Machines; Vibro-Tampers (all similar types self-propelled);

Power Equipment Operators (Cont'd):
Group 2 (Cont'd):
Mechanical Bull Floats; Mixers-over three (3) bags to 27E; Winch and Boom Trucks; Tractor Pulling Power Blade or Elevating Grader; Porter Rex Rail; Clary Screed; Mule Pulling Rollers; Pugmill without Pump; Barber Green or similar Loaders; Track Type Tractor w/Power Unit attached; Fireman; Spray Machine on Paving; Curb Machines; Pavel Ditch Machine; Power Broom; Self-Propelled Conveyors; Power Subgrader; Oil Distributor; Straight Tractor; Truck Crane Oiler; Truck Type Oilers; 3-4 Pieces Small Equipment; Oiler and 1 Piece Small Equipment

Group 3 - Trac Air Machine (without attachments); Herman Nelson Heater, Dravo Warner, Silent Glo & similar types. One Engineer will operate 1-5 and after 5 two Operators required; Self-Propelled Concrete Saws; Rollers - five ton and under on earth and gravel; Form Graders; Pump (1) or (2); Light Plant (1) or (2); Generator (1) or (2); Air Compressor (1) or (2); Conveyor (1) or (2) - Operator will clean; Welding Machine (1) or (2); Mixer - 3 bags and under; Bulk Cement Plant; Oilers

DECISION NO. IL83-2035 - MOD. #2
(48 FR 13413 - April 8, 1983)
Bureau, Carroll, Henry, JoDaviess, Lee, Ogle, Rock Island, Stephenson, Whiteside, & Winnebago Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Omit:		
Power Equipment Operators:		
Area 1		
Add:		
Power Equipment Operators:		
Area 1:		
Group 1	$17.29	$2.35
Group 2	16.14	2.35
Group 3	14.43	2.35

Group 1 - Cranes; Hydro Crane; Shovels; Crane Type Backfiller; Tower Cranes - Mobile & Crawler & Stationary; Derricks & Hoists (3 Drum); Draglines; Drott Tumbo & Similar types considered as Cranes; Backhoe; Derrick Boats; Pile Driver and Skid Rigs; Clam Shell; Locomotive - Cranes; Road Pavers - Single Drum - Dual Drum - Tri-Batcher; Motor Patrol & Power Blades - Dumore - Elevating & Similar types; Mechanics; Central Concrete Mixing Plant Operator; Asphalt Batch Plant Operators and Plant Engineers; Gradall; Caisson Rigs; Skinner Scoop - Koehring Scooper; Dredges; Hoptoe; All Cherry Pickers; Work Boat; Ross Carrier; Helicopter; Dozer; Tournadozer; Tournapulls - all and Similar types; Multiple Unit Earth Movers; 25¢ per hr. for each scoop over one (1) Scoops; Pushcats; Endloaders; Asphalt Surfacing Machine; Slip Form Paver; Rock Crusher; Heavy Equipment Greaser (top greaser on spread); CMI, Auto Grade, CMI Belt Placer & 3 Track and Similar types; Side Booms; Starting Engineer on Pipeline; Asphalt Heater & Planer Combination (used to plane streets); Wheel Tractors (with dozer, hoe or endloader attachments), F.W.D. and Similar types; Blaw Knox Spreader and Similar types; Trench Machines; Pump Crete - Belt Crete - Squeeze Crete - screw type pumps and gypsum (operator will clean); Formless Finishing Machines; Flaherty Spreader or similar types; Screed Man on Laydown Machine; Vermeer Concrete Saw; Escalated Rate on Crane and Derrick Booms: .01¢ per hr., per ft. over 80 ft. including jib, $1.00 per hour over scale when crane or derrick boom is positioned 50' or more adjacent ground level or water level

Group 2 - Bulker & Pump; Power Launches; Boring Machine & Pipe Jacking Machine; Dinkeys; P-H One Pass Soil Cement Machines and similar types; Wheel Tractors (Industry or farm type - other); Back Fillers; Euclid Loader; Fork Lifts; Jeep w/Ditching Machine or other attachments; Tunneluger; Automatic Cement & Gravel Batching Plants; Mobile Drills - Soil Testing and similar types; Pugmill with Pump; All (1) and (2) Drum Hoists; Dewatering System; Straw Blower; Hydro-Seeder; Boring Machine; Hydro-Boom; Bump Grinders (self-propelled); Assistant Heavy Equipment Greaser; Apsco Spreader; Tractors (track-type) without Power Units Pulling Rollers; Rollers on Asphalt - Brick or Macadam; Concrete Breakers; Concrete Spreaders; Cement Strippers; Cement Finishing Machines & CMI Texture & Reel Curing Machines; Vibro-Tampers (all similar types self-propelled);

Power Equipment Operators (Cont'd);
Group 2 (Cont'd);
Mechanical Bull Floats; Mixers-over three (3) bags to 27E; Winch and Boom Trucks; Tractor Pulling Power Blade or Elevating Grader; Porter Rex Rail; Clary Screed; Mule Pulling Rollers; Pugmill without Pump; Barber Green or similar Loaders; Track Type Tractor w/Power Unit attached; Fireman; Spray Machine on Pavings; Curb Machines; Paver; Ditch Machine; Power Broom; Self-Propelled Conveyors; Power Subgrader; Oil Distributor; Straight Tractor; Truck Crane Oiler; Truck Type Oilers; 3-4 Pieces Small Equipment; Oiler and 1 Piece Small Equipment

Group 3 - Trac Air Machine (without attachments); Herman Nelson Heater, Dravo Warner, Silent Glo [illegible] Engineer will operate 1-5 and after 5 two Operators required; Self-Propelled Concrete Saws; Rollers - five ton and under on earth and gravel; Form Graders; Pump (1) or (2); Light Plant (1) or (2); Generator (1) or (2); Air Compressor (1) or (2); Conveyor (1) or (2) - Operator will clean; Welding Machine (1) or (2); Mixer - 3 bags and under; Bulk Cement Plant; Oilers

DECISION NO. IL83-2036 - MOD. #1
(48 FR 16404 - April 15, 1983)

MODIFICATION P. 7

	Basic Hourly Rates	Fringe Benefits
Adams, Brown, Cass, Champaign, Christian, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Logan, Macon, Mason, Menard, Morgan, Moultrie, Piatt, Pike, Sangamon, Schuyler, Scott, Shelby, & Vermilion Counties, Illinois		
Omit:		
Power Equipment Operators:		
Area 3		
Add:		
Power Equipment Operators:		
Area 3:		
Group 1	$17.29	$2.35
Group 2	16.14	2.35
Group 3	14.43	2.35

Group 1 - Cranes; Hydro Crane; Shovels; Crane Type Backfiller; Tower Cranes - Mobile & Crawler & Stationary; Derricks & Hoists (3 Drum); Draglines; Drott Yumbo & Similar types considered as Cranes; Backhoe; Derrick Boats; Pile Driver and Skid Rigs; Clam Shell; Locomotive - Cranes; Road Pavers - Single Drum - Dual Drum - Tri-Batcher; Motor Patrol & Power Blades - Dunore - Elevating & Similar types; Mechanics; Central Concrete Mixing Plant Operator; Asphalt Batch Plant Operators and Plant Engineers; Gradall; Caisson Rigs; Skinner Scoop - Koehring Scooper; Dredges; Boptoe; All Cherry Pickers; Work Boat; Ross Carrier; Helicopter; Dozer; Tournadozer; Tournapulls - all and Similar types; Multiple Unit Earth Movers: 25¢ per hr. for each scoop over one (1); Scoops; Pushcats; Endloaders; Asphalt Surfacing Machine; Slip Form Paver; Rock Crusher; Heavy Equipment Greaser (top greaser on spread); CMI, Auto Grade, CMI Belt Placer & 3 Track and Similar types; Side Booms; Starting Engineer on Pipeline; Asphalt Heater & Planer Combination (used to plane streets); Wheel Tractors (with dozer, hoe or endloader attachments); F.W.D. and Similar types; Blaw Knox Spreader and Similar types; Trench Machines; Pump Crete - Belt Crete - Squeeze Crete - screw type pumps and gypsum (operator will clean); Formless Finishing Machines; Flaherty Spreader or similar types; Screed Man on Laydown Machine; Vermeer Concrete Saw; Escalated Rate on Crane and Derrick Booms: .01¢ per hr., per ft. over 80 ft. including jib, $1.00 per hour over scale when crane or derrick boom is positioned 50' or more adjacent ground level or water level

Group 2 - Bulker & Pump; Power Launches; Boring Machine & Pipe Jacking Machine; Dinkeys; P-H One Pass Soil Cement Machines and similar types; Wheel Tractors (Industry or farm type - other); Back Fillers; Euclid Loader; Fork Lifts; Jeep w/Ditching Machine or other attachments; Tuneluger; Automatic Cement & Gravel Batching Plants; Mobile Drills - Soil Testing and similar types; Pugmill with Pump; All (1) and (2) Drum Hoists; Dewatering System; Straw Blower; Hydro-Seeder; Boring Machine; Hydro-Boom; Bump Grinders (self-propelled); Assistant Heavy Equipment Greaser; Apsco Spreader; Tractors (track-type) without Power Units Pulling Rollers; Rollers on Asphalt - Brick or Macadam; Concrete Breakers; Concrete Spreaders; Cement Strippers; Cement Finishing Machines & CMI Texture & Reel Curing Machines; Vibro-Tampers (all similar types self-propelled);

DECISION NO. IL83-2036 (Cont'd)

MODIFICATION P. 8

	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators (Cont'd):		
Group 2 (Cont'd):		

Mechanical Bull Floats; Mixers-over three (3) bags to 27E; Winch and Boom Trucks; Tractor Pulling Power Blade or Elevating Grader; Porter Rex Rail; Clary Screed; Mule Pulling Rollers; Pugmill without Pump; Barber Green or similar Loaders; Track Type Tractor w/Power Unit attached; Fireman; Spray Machine on Paving; Curb Machines; Paver; Ditch Machine; Power Broom; Self-Propelled Conveyors; Power Subgrader; Oil Distributor; Straight Tractor; Truck Crane Oiler; Truck Type Oilers; 3-4 Pieces Small Equipment; Oiler and 1 Piece Small Equipment

Group 3 - Trac Air Machine (without attachments); Herman Nelson Heater, Dravo Warner, Silent Glo & similar types. One Engineer will operate 1-5 and after 5 two Operators required; Self-Propelled Concrete Saws; Rollers - five ton and under on earth and gravel; Form Graders; Pump (1) or (2); Light Plant (1) or (2); Generator (1) or (2); Air Compressor (1) or (2); Conveyor (1) or (2) - Operator will clean; Welding Machine (1) or (2); Mixer - 3 bags and under; Bulk Cement Plant; Oilers

DECISION NO. MN83-2038 - MOD. #1 (48 FR 20594 - May 6, 1983 Aitkin, Becker, Beltrami, Big Stone, Cass, Chisago, Clay, Clearwater, Cottonwood, Crow Wing, Dodge, Douglas, Goodhue, Grant, Hubbard, Isanti, Jackson, Kittson, Lac Qui Parle, Lake of the Woods, Le Sueur, Lincoln, Lyon, Mahnomen, Marshall, McLeod, Meeker, Mille Lacs, Morrison, Murray, Nicollet, Nobles, Norman, Otter Tail, Pennington, Pine, Polk, Pope, Red Lake, Redwood, Renville, Rice, Roseau, Sibley, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena, Waseca, Wilkin, Winona, Wright, & Yellow Medicine Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
ASBESTOS WORKERS:		
Area 1	$19.15	1.46
Area 3	18.32	3.65
BOILERMAKERS	17.345	3.00
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 8:		
Carpenters; Piledrivermen	15.86	3.62
Area 9:		
Soft Floor Layers	15.78	3.02
ELEVATOR CONSTRUCTORS:		
Chisago & Isanti Cos.:		
Mechanic	17.99	2.69+ a&b
Helpers	70%JR	2.69+ a&b
GLAZIERS:		
Area 1	$17.65	1.31
PAINTERS:		
Area 1:		
Brush	13.45	1.59
Sandblaster; Spray; Steel	14.45	1.59
Area 3:		
Brush	12.48	1.59
Sandblaster; Spray; Steel	13.48	1.59
Area 6:		
Brush; Roller	15.40	1.62
Drywall Sander	11.63	1.62
Drywall Finisher	15.50	1.62
Paperhanging; Steel	15.65	1.62
Sandblasting; Spray	15.90	1.62
Stageman; Beltman	16.40	1.62
Area 7:		
Brush; Roller; Wallpaper	16.06	2.43
Sandblast; Spray; Steel	16.81	2.43
Finishers & Tapers	17.01	1.47
Sanders	12.76	1.47
PIPEFITTERS; Plumbers; & Steamfitters:		
Area 1	15.28	2.41
Area 8:		
Pipefitters; Steamfitters	17.99	3.81
Plumbers	14.95	6.85+d
Area 9		
ROOFERS:		
Area 1:		
Roofers	13.78	3.30
2nd Roofers	13.53	3.30
Kettlemen	13.33	3.30
Area 6	14.35	1.20
SHEET METAL WORKERS:		
Area 1	16.63	3.78
TILE SETTERS:		
Area 1	18.45	
LABORERS:		
Area 2:		
Group 1	9.00	.95
Group 2	9.10	.95
Group 3	9.20	.95

DECISION NO. MN83-2038 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Laborers (Cont'd)		
Area 8:		
Group 1	9.00	.95
Group 2	9.10	.95
Group 3	9.20	.95
AREA DESCRIPTIONS:		
PAINTERS:		
Area 1: Aitkin, Beltrami, Big Stone, Cass, Clearwater, Crow Wing, Hubbard, Lake of the Wood, Morrison (N. part, exclu. Little Falls), Stevens, Swift, Todd & Wadena Cos.		
Area 2: Becker, Clay, Grant, Kittson, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau, Traverse & Wilkin Cos.		
Area 3: Douglas, Meeker, Mille Lacs, Morrison (S. part, inclu. Little Falls), & Pope Cos.		
ROOFERS:		
Area 1: Pine Co.		
Area 4: Aitkin, Cass, Douglas, Hubbard, Isanti (N. of St. Hwy. #95, exclu. city of Cambridge), Mille Lacs, Morrison, Pope, Stevens, Todd, Wadena & Wright (N. of Wright Co. Rd. #39, from S. Haven to Monticello, incl. both towns) Cos.		

DECISION NO. M082-2064 - MOD. #4
(47 FR 53622 - November 24, 1982)
Anoka, Carver, Dakota, Hennepin, Ramsey, Scott & Washington Counties, Minnesota

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Anoka (Remainder of Co.) & Remaining Counties:		
Commercial Building:		
Electricians	$16.80	10%+ $3.59
Cable Splicers	16.95	10%+ $3.59

DECISION NO. M083-4047 - Mod. #1
(48 FR 29428 - June 24, 1983)
Statewide, Missouri

	Basic Hourly Rates	Fringe Benefits
Change:		
Ironworkers:		
Zone 3	$16.125	$4.25
Line Construction:		
Area 1:		
Lineman	17.80	1.00+ 5-1/2%
Lineman Operator	16.60	1.00+ 5-1/2%
Groundman Powderman	12.47	1.06+ 5-1/2%
Groundman	11.87	1.06+ 5-1/2%
Zone 2:		
Lineman	17.03	1.06+ 5-1/2%
Lineman Operator	16.24	1.06+ 5-1/2%
Groundman Powderman	11.91	1.06+ 5-1/2%
Groundman	11.03	1.06+ 5-1/2%
Truck Drivers:		
Zone 1:		
Group 1	12.76	3.25
Group 2	12.96	3.25
Group 3	13.27	3.25
Group 4	13.42	3.25
Group 5	12.54	3.25

DECISION NO. 0683-2040 - MOD. #2
(48 FR 21791 - May 13, 1983)
Lucas County, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	$20.075	$3.23

DECISION NO. 0683-2055 - MOD. #1
(48 FR 31540 - July 8, 1983)
Adams, Allen,...Wood & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers:		
Area 2	$20.075	$3.23
Sheet Metal Workers:		
Area 4	16.22	2.68

DECISION NO. NJ83-3025 - MOD. #3
(48 FR 27991 - June 17, 1983)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Laborers:		
Laborers - Building Construction Zone 1:		
Zone 1: Passaic County (Townships of Passaic, Delawanna, Allwood, Athenia and Clifton to Plaget Avenue; Paterson, and the Boroughs and Townships of Albion Place, Little Fall, Totowa Boroughs, West Paterson, Wayne, Hawthorne, Pompton, Haledon, Clifton to Plaget Avenue, West Milford, Ringwood, Bloomingdale, New Jersey and East Paterson to the Garfield boundary line) Bergen County (Townships of Garfield, Lodi and Wallington)		
Power Equipment Operators:		
Power Equipment Operators (Excluding Steel Erection, Tank Erection and Cilostatic Mainlines and Transporation Pipe Lines)		
Class 4 to read Class 3; Class 5 to read Class 4; Class 6 to read Class 5; Class 7 to read Class 6.		
Sheet Metal Workers: Zone 4	$15.23	4.39
Sprinkler Fitters: Zone 1	17.68	4.65

DECISION NO. NJ83-3016 - MOD. #3
(48 FR 28003 - JUNE 17, 1983)
Atlantic, Burlington, Camden, Cumberland, Gloucester, Mercer, Ocean, and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS:		
Zone 3:		
Commercial Brush, Roller and Paperhanging	$15.30	2.2[illegible]
Commercial Spray or dipping, or the use of any special material, Brushing or Rolling on Steel or Tanks, or Working Swing or Chair	16.05	2.20
Sandblasting or Power Tools: Spraying or the use of any special material on steel or Tanks	16.80	2.20
Laborers:		
Zone 2:		
Burlington (Townships of Edgewater Park, Delance, Willingsboro, West Hampton, East Hampton, Pemberton, Delran, Cinnaminson, Morrestown, Mt. Laurel, Hainesport, Lumberton, South Hampton, Evesham, Medford, Shamony, Tabernacle and Woodland), Camden, Gloucester, Salem and Cumberland (Remainder of County) Counties:		

MODIFICATION P. 13

DECISION #NM83-4032-Mod.#8 (48FR16413-April 15, 1983) STATEWIDE, NEW MEXICO	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELEVATOR CONSTRUCTORS:		
AREA I	$16.28	JJ
AREA II	12.38	JJ
Elevator constr. helpers JJ - $2.69 + seven paid Holidays: and employees with 6 mos. to 5 years of service 6%: over 5 years 8% of basic hourly rate.	70%JR	JJ
ELECTRICIANS (ZONE III)		
3-A	13.60	I
3-B	15.05	I
I--3-1/2%+.80		
CABLE SPLICERS (ZONE III)		
3-A	13.85	M
3-B	15.30	M
M--3-1/2%+.80		
ELECTRICIANS (ZONE I):		
Area 1-A	16.45	Y
Area 1-B	17.93	Y
Area 1-C	18.92	Y
Area 1-D	20.73	Y
ELECTRICIANS - ZONE II	18.92	Y
CABLE SPLICERS (ZONE I):		
Area 1-A	18.10	K
Area 1-B	19.58	K
Area 1-C	20.57	K
Area 1-D	22.38	K
ADD:		
CABLE SPLICERS - ZONE II	20.57	K

DECISION NO. NCH2-1027 -- MOD. # 3

(April 30, 1982 in 47 FR 18752)

HIGHWAY CONSTRUCTION STATEWIDE, NORTH CAROLINA

[illegible]:

[illegible]TORS:

Chain Saw Operator $ 4.50

CHANGE:

POWER EQUIPMENT OPERATORS:

Power Tool Operator--Jackhammer, Vibrator, Tamper, Paving Breaker, Chainsaw, Etc. employing air, fuel, or current for power 6.18

MODIFICATION P. 14

DECISION #PA82-3017-MOD.#4 (47FR13108-March 26, 1982) LACKAWANNA, SUSQUEHANNA, WAYNE AND WYOMING COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS-STONEMASONS:		
Scranton in Lackawanna County	$15.85	2.01
Susquehanna & Wyoming Counties	15.70	2.00
CARPENTERS:		
Lackawanna, Susquehanna and Wayne Counties	14.46	2.50
Wyoming County:		
East of Susquehanna River	14.97	2.50
West of Susquehanna River	14.99	2.25
CEMENT MASONS:		
Wyoming, Wayne, Susquehanna Cos., Scranton in Lackawanna County	15.65	
ELECTRICIANS:		
Lackawanna, Susquehanna and Wayne Counties	15.25	3.00+3%
Wyoming County:		
East of Susquehanna River	15.25	3.00+3%
West of Susquehanna River	15.99	3.00+3%
ELEVATOR CONSTRUCTORS	15.60	3.00+a+b
" " HELPERS	10.92	3.00+a+b
" " "(Prob.)	7.80	
IRONWORKERS:		
Lackawanna, Wayne and Wyoming Counties:		
Structural-Ornamental	18.10	3.55
Reinforcing	18.00	3.55
LABORERS:		
Lackawanna, Wayne, Susquehanna & Northern part of Wyoming County:		
Unskilled and window cleaners	12.80	2.67
Semi-skilled laborers; jackhammer oprs. (each man when two are required for operation of Jackhammer) vibrator & buster men, wagon drill & all men handling dynamite, gas buggies, 2" pumps & conc. mixers (up to 2 bags) & all pneumatic tools	12.95	2.67

CHANGE (CONT'D)	Basic Hourly Rates	Fringe Benefits
LABORERS CONT'D)		
Plasterer tenders and mason tenders and handling of all material to be used; masons and scaffold builders	$13.20	2.67
Non-Metallic pipe layers & making of joints, clay, terra cotta, ironstone, vitrified con[illegible] of burning torches; asphalt or other material	12.95	2.67
SOUTHERN PART OF WYOMING COUNTY:		
Unskilled	12.87	2.60
Semi-skilled laborers; pneumatic and other mechanical tool oper.; 2" pump or under; handling and mixing of all material used by masons from stock pile to mason; non-metallic pipelayer & making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches; asphalt or other hot material; cement finishers and blasters helpers	13.07	2.60
Plasterers' tenders; blaster; wagon drill operators	13.19	2.60
Mason tenders and scaffold builders	13.27	2.60
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equip. operators	15.64	.55+ 3-3/8%
Winch truck operators	10.94	.55+ 3-3/8%
Groundman	10.46	.55+ 3-3/8%
MARBLE SETTERS	13.60	2.50
MILLWRIGHTS:		
Lackawanna, Susquehanna and Wayne Counties	15.04	2.50
PAINTERS:		
Brush & roller	13.90	1.20
Spray	15.40	1.20
Steel	14.90	1.20

MODIFICATION P. 15

DECISION #PA82-3017(cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLASTERERS	$15.38	
PLUMBERS	15.24	3.95
POWER EQUIPMENT OPERATORS:		
GROUP 1	14.76	25.6%+a
GROUP 2	14.48	25.6%+a
GROUP 3	13.63	25.6%+a
GROUP 4	12.89	25.6%+a
GROUP 5	12.42	25.6%+a
GROUP 6	11.53	25.6%+a
GROUP 7	15.01	25.6%+a
GROUP 7-A	15.25	25.6%+a
GROUP 7-B	15.49	25.6%+a
PIPEFITTERS	16.59	2.60
ROOFERS:		
Composition & Kettleman	14.42	2.28
SHEET METAL WORKERS	15.92	2.00
SOFT FLOOR LAYERS:		
Lackawanna, Wayne and Susquehanna Counties	14.46	2.50
Wyoming County	11.94	2.25

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTY: TUSCALOOSA
DECISION NUMBER: AL83-1053
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL80-1069 dated June 6, 1980 in 45 FR 38239.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 11.56	
CARPENTERS	8.87	
CEMENT MASONS	12.00	
ELECTRICIANS	14.70	1.20+ 5%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.25	2.69+ a
Helpers	9.275	2.69+ a
GLAZIERS	9.50	
IRONWORKERS	6.67	
LABORERS	4.89	
MILLWRIGHTS	8.47	
PAINTERS, Brush	9.07	
PLUMBERS & PIPEFITTERS	11.38	1.20
ROOFERS	11.45	.60
SHEET METAL WORKERS	14.67	1.96
TRUCK DRIVERS	4.89	
WELDERS--Rate for craft for which welding is incidental		

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Asphalt Luteman	$ 6.00	
Asphalt Spreader	6.00	
Backhoe	6.00	
Bulldozer	6.00	
Crane	11.43	
Front End Loader	6.00	
Motor Grader	6.00	
Motor Patrol	5.50	
Scraper	6.00	

FOOTNOTE:

a. Six Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day. Employer contributes 8% of regular hourly rate to Vacation Credit for employee who has worked in business more than 5 years. Employer contributes 6% regular hourly rate to Vacation Credit for employee who has worked less than 5 years.

Unlisted classifications needed for work not included within the scope of this classification may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Nebraska
DECISION NO.: NE83-4052
COUNTIES: See below *
DATE: Date of Publication
Supersedes Decision No. NE80-4038 dated May 16, 1980 in 45 FR 32543.
DESCRIPTION OF WORK: Heavy and Highway Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)
* Statewide (except Douglas, Cass, Sarpy, Washington and that portion of Saunders County East of Highway #109.

	Basic Hourly Rates	Fringe Benefits
CARPENTER	$8.70	
CARPENTER HELPER	6.23	
CEMENT FINISHER	8.00	
CEMENT FINISHER HELPERS	5.50	
CONCRETE SAW OPERATOR	6.95	
DRILLER	8.15	
FORM SETTER (ROAD)	6.95	
FORM SETTER (STRUCTURES)	5.90	
LABORER	5.43	
MANHOLE BUILDER	6.20	
PAINTER	7.00	
PILE DRIVER LEADSMAN	4.95	
POWER EQUIPMENT OPERATORS:		
All Purpose Spreader	5.90	
Asphalt Distributor	5.65	
Asphalt Distributor Helper	5.30	
Asphalt Heaterman	5.30	
Asphalt Paving Machine	7.60	
Asphalt Paving Machine Screedman	7.60	
Asphalt Plant Operator	7.90	
Stationary Pl. (base or stabilization)	6.95	
Stationary Pl. (asphalt or concrete)	7.90	
Beginner Operator	6.20	
Bulldozer:		
Less than 115 Drawbar H.P.	7.10	
115 Drawbar H.P. and over	7.90	
Cement Handler	4.95	
Clamshell,Dragline, Backhoe,Crane, Pile Driver or Shovel	8.41	
Concrete Mixer	4.95	
Concrete Paver	6.95	
Slip Form Paver	7.90	
Concrete Finishing Machine and Spreader	7.90	
Conveyor	4.95	
Crusher (incl. those with integral screening plant)	7.10	
POWER EQUIPMENT OPERATORS (Cont.)		
Dredge Pump Under 10"	$5.90	
Dredge Pump 10" and and Over	6.95	
Fireman (boiler)	5.30	
Front End Loader:		
3-1/2 Cu. Yds. or less	6.95	
Over 3-1/2 Cu. Yds.	7.60	
Hydrohammer	6.68	
Laydown Machine	7.60	
Mechanic	8.25	
Mechanic Helper	6.95	
Motor Grader	8.00	
Oiler or Greaser	6.95	
Roller or Compactor, Self-Propelled	7.10	
Scraper, Under 16 Cu. Yds.	7.10	
Scraper 16 Cu. Yds. and Over	7.90	
Power Grade Machine (trimmer & profiler)	7.90	
Pump	5.90	
Tractor:		
Farm Type	5.90	
Less than 115 Drawbar H.P.	7.10	
115 Drawbar H.P. and Over	7.60	
Traveling Plant (stabilization)	7.10	
Traveling Plant Helper (stabilization)	5.90	
Trenching Machine	6.20	
TRUCK DRIVER:		
Single Axle	6.49	
Tandem Axle	5.90	
Triple Axle	6.23	
Semi-Trailer	5.90	
Transit Mix	5.90	
Lowboy	6.95	
WATER TANKER, 6,000 Gal. & OVER	7.10	
WELDER	7.60	

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 YORK
DECISION NO. NY83-3027
SUPERSEDES DECISON NO. NY81-3048 dated July 17, 1981 in 46 FR 37193
DESCRIPTION OF WORK: Building, Residential (includes single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects

COUNTIES: NASSAU & SUFFOLK
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.14	7.03
BOILERMAKERS	19.09	32%+.04
BRICKLAYERS	17.22	6.17
CARPENTERS		
Nassau County (except that part South of the Southern State Parkway West of Seaford Creek, also, Smithtown Islip line on the East, Long Island Sound on the North and Middle Island RR track on the South		
Carpenters, Millwrights Piledrivers, Soft Floor Layers, Acostical, Drywall		
Residential (under two stories)	12.67	2.35
Building	17.37	6.01
Heavy & Highway	17.65	6.01
Remainder of Nassau County		
Building, Residential, Heavy & Highway	17.37	4.63
Suffolk County		
Residential (2 stories & under)	16.15	2.15
Building	16.15	5.44
Heavy & Highway	16.20	5.44
CEMENT MASONS	14.15	3.71
DIVERS	15.69	4.735
ELECTRICIANS		
Building	18.55	37%+.70
Wiring of single or multiple family dwellings & apartments up to and including 2 stories	12.20	36%+.70
Installation of television receivers, radio receivers, record players, and associated apparatus and antenna and home appliances and closed circuit TV and multiple outlet distribution systems, sound and intercommunication systems		
Residential & commercial electronic devices [illegible] such as [illegible] electrical contract	9.57	a
ELEVATOR CONSTRUCTORS	14.99	2.33+b +c
ELEVATOR CONSTRUCTORS' HELPERS	11.24	2.33+b +c
ELEVATOR CONSTRUCTORS' HELPER (PROBATIONARY)	7.50	
MODERNIZATION & REPAIR ELEVATOR CONSTRUCTORS	11.23	2.33+b +c
MODERNIZATION & REPAIR ELEVATORS CONSTRUCTORS' HELPERS	8.42	2.33+b +c
MODERNIZATION & REPAIR ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	5.615	
GLAZIERS	16.75	5.70
IRONWORKERS		
Structural	15.50	11.59
Ornamental Finisher	15.50	11.59
LABORERS (BUILDING)	12.74	4.57
LABORERS (HEAVY & HIGHWAY):		
Concrete & Curb form setters, asphalt rakers	11.39	23%+ .75+d
Asphalt workers & roller boys, asphalt top shovelers & smoothers asphalt tampers	11.14	23%+.75 +d
Jackhammers, & drill men, hoppermen, carpenters' tenders, pipe jointers & setters, concrete laborers (structures), stone spreading laborers, trackmen, grading & excavating laborers, yard laborers,		

	Basic Hourly Rates	Fringe Benefits
poddlers on concrete pavement, asphalt plant (batcher & hopper men), all other unskilled laborers	10.67	.75+23% +d
MARBLE SETTERS		
Cutters & Setters	16.21	4.19+e
Carvers	16.36	4.19+e
Polishers	15.89	2.90+e
Crane operators; derrickmen	15.21	4.34+e
Marble Finishers	14.21	2.90+e
MILLWRIGHTS	16.45	6.46
PAINTERS		
Suffolk County:		
Basic	11.95	4.43
Scaffold work, rolling scaffold 18 ft. and over, spraying	13.40	4.43
Structural steel & Sandblasting	14.86	4.43
Nassau County (Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson and part of Valley Stream):		
Painters	14.84	.01+30%
Spray	17.05	.01+30%
Fire Escapes	16.05	.01+30%
Nassau County (Remainder of County):		
Painters	13.45	4.07
Spray, Open Steel, Swinging Scaffold, Rolling Scaffold 18 ft. or over	15.37	4.07
Sandblasting	17.29	4.07
PAPERHANGERS	13.15	33%
PLASTERERS	15.40	4.22
PLUMBERS:		
Nassau County		
Building, Heavy & Highway Construction	16.13	4.97
Residential	10.53	3.40
Jobbing (repair ot present plumbing systems that does not change the existing roughing or any minor alterations job where the change to the existing roughing does not have a labor cost in excess of $1,500,000)	9.00	2.72
Suffolk County	17.05	6.04
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):		
Class 1	17.080	2.40+ 8%+
Class 2	17.355	2.40+ 8%+
	17.255	2.40+ 8%+
Class 4	15.905	2.40+ 8%+
Class 5	16.905	2.40+ 8%+
Class 6	17.105	2.40+ 8%+
Class 7	16.655	2.40+ 8%+
Class 8	17.480	2.40+ 8%+
Class 9	16.905	2.40+ 8%+
Class 10	17.455	2.40+ 8%+
Class 11	17.055	2.40+ 8%+
Class 12	16.155	2.40+ 8%+
Class 13	17.73	2.40+ 8%+
Class 14-A	18.23	2.40+ 8%+
Class 14-B	18.48	2.40+ 8%+
Class 14-C	19.73	2.40+ 8%+
Class 14-D	20.23	2.40+ 8%+
Class 15	16.85	2.40+ 8%+
Class 16	17.23	2.40+ 8%+
Class 17	17.28	2.40+ 8%+
Class 18	17.07	2.40+ 8%+
Class 19	16.68	2.40+ 8%+
Class 20	17.33	2.40+ 8%+

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) (CONT'D)		
Class 21	19.95	2.40+ 8%+f
Class 22	15.53	2.40+ 8%+f
Class 23	18.33	2.40+ 8%+f
Class 24	16.67	2.40+ 8%+f
Class 25	17.15	2.40+ 8%+f
Class 26	16.87	2.40+ 8%+f
Class 27	15.18	2.40+ 8%+f
Class 28	17.295	2.40+ 8%+f
Class 29	17.705	2.40+ 8%+f
Class 30	17.08	2.40+ 8%+f
Class 31	15.895	2.40+ 8%+f
Class 32	17.305	2.40+ 8%+f
Class 33	17.705	2.40+ 8%+f
Class 34	14.87	2.40+ 8%+f
Class 35	16.965	2.40+ 8%+f
POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY):		
Class 1	17.08	2.40+ 8%+g
Class 2	17.45	2.40+ 8%+g
Class 3	17.30	2.40+ 8%+g
Class 4	14.83	2.40+ 8%+g
Class 5	16.58	2.40+ 8%+g
Class 6	17.02	2.40+ 8%+g
Class 7	16.27	2.40+ 8%+g
Class 8	16.80	2.40+ 8%+g
Class 9	16.50	2.40+ 8%+g
Class 10	17.45	2.40+ 8%+g
Class 11	15.89	2.40+ 8%+g
Class 12	16.27	2.40+ 8%+g
Class 13	15.18	2.40+ 8%+g
Class 14	16.91	2.40+ 8%+g
Class 15	14.86	2.40+ 8%+g
Class 16	16.48	2.40+ 8%+g
Class 17	17.27	2.40+ 8%+g
Class 18	14.88	2.40+ 8%+g
Class 19	16.62	2.40+ 8%+g
Class 20	14.87	2.40+ 8%+g
Class 21	16.44	2.40+ 8%+g
Class 22	15.32	2.40+ 8%+g
Class 23	16.54	2.40+ 8%+g
Class 24	17.70	2.40+ 8%+g
Class 25	14.65	2.40+ 8%+g
ROOFERS		
Slate & Tile	11.07	3.95
Waterproofer	12.33	6.27
SHEET METAL WORKERS	12.35	2.88+12%
SPRINKLER FITTERS & STEAMFITTERS	16.07	5.75
STONE DERRICKMEN & RIGGERS	14.88	5.25
STONEMASONS	17.76	5.75
TERRAZZO WORKERS	13.38	2.82
TERRAZZO FINISHERS	12.07	2.71
TILE SETTERS	15.28	4.335
TILE FINISHERS	11.71	1.825
TRUCK DRIVERS		
Building		
Ready-mix concrete, sand, gravel, asphalt & bulk cement	9.37	3.064+h
Euclids & Turnapulls	9.225	3.064+h
Heavy		
Euclids & Turnapulls	9.325	3.064+h
High rise	9.94	3.064+h

WELDERS - receive rate prescribed for craft 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 DFR 5.5 (a)(1)(ii)).

FOOTNOTES:

PAID HOLIDAYS: A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Christmas Day

a. Paid Holidays: A through F, President's Day, the anniversary of the employee's date of employment, and the employee's birthday.

All employees whose continuous service credit began prior to April 1 of the current year shall be entitled to a vacation of one week, and the employee whose continuous service credit started prior to October 1 of the preceding year shall be entitled to a vacation of two weeks. Employees who on March 31 of the current year have continuous service credit of six years or more with the Company shall be entitled to a vacation in accordance with the following schedule:

6 years but less than 7 years	2 weeks and 1 day
7 years but less than 8 years	2 weeks and 2 days
8 years but less than 9 years	2 weeks and 3 days
9 years but less than 10 years	2 weeks and 4 days
10 years but less than 15 years	3 weeks
15 years but less than 25 years	4 weeks
25 years and over	5 weeks

An employee shall be paid for absence due to personal illness, personal injury, or death in the immediate family at his basic rate for a period of five (5) days in any calender year.

b. Employer contributes $8/day.
c. Paid Holidays: A through F Lincoln's Birthday, Washington's Birthday, Columbus Day, Armitice Day, and Friday after Thanksgiving Day.
d. Paid Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veteran's Day, and Election Day, provided the employee worked or shows up for work on the schedule day before and the scheduled day after the holiday.
e. Paid Holidays: One half day's pay for Labor Day

f. Paid Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, and Veteran's Day.
g. Paid Holidays: A through F; Lincoln's Birthday, Washington's Columbus Day, Election Day, and Veteran's Day, provided employee works the day after the holiday.
h. For each 15 days worked with the contract year an employee will receive one day's vacation with pay, maximum vacation of 3 weeks per year.
Employer contributes $4.00 per day to Security Fund.

CLASSIFICATION DESCRIPTIONS-POWER EQUIPMENT OPERATORS

BUILDING CONSTRUCTION:

Class 1: Asphalt spreader
Class 2: Backhoe, dragline, gradall, piledriver, shovel
Class 3: Batching plant (on site of job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel), pump (concrete)
Class 4: Bending machine, generator (small), vibrator (1 to 5) dinky locomotive
Class 5: Boiler, bulldozer, compressor (on crane), compressor (pile work), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compacters (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than steel), pump (double action diaphram), pump (gypsum), pump (hydraulic), pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)
Class 6: Boom truck, crane (crawler or truck), conveyor-multi plant engineer, stone spreader (self-propelled)
Class 7: Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), trac tamper, welding machine
Class 8: Crane and boom truck (setting structural or stone
Class 9: Bulldozer (use for excavation), fireman, loading machine, powerboom, scoop (carry-all scraper) vac-all
Class 10: CMI or maxim spreader, concrete spreader, derrick, sideboom tractor
Class 11: Compressor (structural steel)
Class 12: Concrete saw or cutter, mixer (with skip), mixer (2 small, with or without skip), pump (up to 3 inches), tractor caterpillar or wheel
Class 13: Crane with clam shell bucket
Class 14: Crane, crawler or truck:
a. Boom lengths of 100' (including jib) but less than 150'
b. Boom lengths of 150' (including jib) but less than 250'
c. Boom lengths of 250' (including jib) but less than 350'
d. Boom lengths of 350'
Class 15: Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man
Class 16: Dredge
Class 17: Elevator, forklift, hoist (1drum)
Class 18: Forklift (walk-behind, power operated)
Class 19: Grader
Class 20: Hoist (2 and drum)
Class 21: Hoist (multiple platform)
Class 22: Mechanical compacters (hand operated), trench machine (hand)
Class 23: Hoist tandem platform
Class 24: Hydra-hammer, ridge cutter
Class 25: Loading machine (with capacity of 10 yds. or over)
Class 26: Oiler, stump chipper

CLASSIFICATION DESCRIPTIONS-POWER EQUIPMENT OPERATORS (CON'T)

Class 27: Power buggies
Class 28: Roller, trench machine
Class 29: Scoop, carry-all, scraper in tandem
Class 30: Sideboom tractor (used in tank work)
Class 31: Stripping machine
Class 32: Tank work
Class 33: Tower crane (engineer)
Class 34: Tower crane (oiler)
Class 35: Welding machine, structural steel

HEAVY & HIGHWAY CONSTRUCTION

Class 1: Asphalt spreader, boom truck, boring machine (other than post holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker
Class 2: Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shovel
Class 3: Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work
Class 4: Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine(hand)
Class 5: Boiler
Class 6: Boring machine (post holes)
Class 7: Bulldozer, concrete finishing machine, conveyor, curb machine, (asphalt or concrete), curing machine, dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 in. or over), pump (hydraulic), pump (jet), pump (submersible), pump (well point), roller (5 tons and over scoop (carry-all, scraper), maintenance man (tower crane), vac-all, welding & burning
Class 8: Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel) poser house, loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum)
Class 9: Compressor (2 or more in battery)
Class 10: Compressor (stone setting), compressor (structural steel), welding machine(structural steel)
Class 11: Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), striping machine, welding machine
Class 12: Loading machine, with bucket capacity of 10 yards or over
Class 13: Concrete breaker, concrete saw or cutter, forklift (walk-behind, poser operated), hydra-hammer, mixer (with skip), mixer (2 small wth or without skip), mixer (2 bag or over with or without skip), power buggies, power grinders, ridge cutter
Class 14: Dredge
Class 15: Generator (small)
Class 16: Grader

CLASSIFICATION DESCRIPTIONS-POWER EQUIPMENT OPERATORS (CON'T)

BUILDING CONSTRUCTION:

Class 17: Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting & structural steel), trench machine
Class 18: Mechanic
Class 19: Mechanical compactors (machine drawn), roller (over 5 tons)
Class 20: Oiler, root cutter, stump chipper, tower crane(oiler, track tamper), (2 engineers, each)
Class 21: Portable heaters
Class 22: Power boom
Class 23: Pump (concrete)
Class 24: Scoop (carry-all, scraper in tandem), tower crane (engineer)
Class 25: Tractor (caterpillar or wheel)

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Statewide
DECISION NO.: TX83-4053 DATE: Date of Publication
Supersedes Decision No. TX82-4052, dated October 29, 1982 in 47 FR 49213.
DESCRIPTION OF WORK: See "Area Covered by Various Zones"

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	-	6.00	-	-	6.00
Asphalt Heaterman	5.70	5.40	5.35	5.00	-
Asphalt Raker	6.25	[illegible]	[illegible]	5.35	5.60
Asphalt Shoveler	-	-	4.80	4.65	4.15
Batching Plant Scaleman	6.40	6.30	-	-	-
Batterboard Setter	7.70	-	-	-	6.20
Carpenter	6.50	7.10	6.20	5.85	6.25
Carpenter Helper	5.25	5.50	5.10	4.70	5.05
Concrete Finisher (Paving)	7.75	7.25	7.50	7.05	6.25
Concrete Finisher Helper (Paving)	6.50	-	5.60	-	4.80
Concrete Finisher (Structures)	7.10	7.25	5.90	5.40	6.20
Concrete Finisher Helper (Structures)	5.60	6.00	5.00	4.80	5.05
Concrete Rubber	-	-	-	-	4.50
Electrician	-	7.75	13.50	11.30	10.55
Electrician Helper	-	5.75	-	8.20	5.85
Form Builder (Structures)	6.75	-	7.70	5.15	6.00
Form Builder Helper (Structures)	5.35	-	4.95	4.40	5.00
Form Liner (Paving & Curb)	7.75	-	-	-	5.20
Form Setter (Paving & Curb)	7.05	7.35	6.25	-	6.05
Form Setter Helper (Paving & Curb)	-	-	4.80	-	4.75
Form Setter (Structures)	7.55	7.30	6.45	5.35	6.25
Form Setter Helper (Structures)	5.95	6.25	5.50	4.75	4.95
Laborer, Common	4.90	4.65	4.80	4.10	4.15
Laborer, Utility Man	5.50	5.55	6.00	4.90	4.75
Manhole Builder, Brick	-	-	6.00	-	-
Mechanic	8.75	7.60	7.20	6.50	7.05
Mechanic Helper	6.55	-	5.60	-	5.25
Oiler	6.25	5.30	5.45	5.85	5.80
Serviceman	6.45	6.60	5.85	5.30	5.65
Painter (Structures)	6.00	-	-	-	-
Piledrivermen	-	-	-	-	-
Pipelayer	6.95	-	-	-	5.35
Pipelayer Helper	-	-	-	-	4.65
Pneumatic Mortarman	-	-	-	-	-
Powderman	6.90	7.10	5.70	5.50	5.75
Reinforcing Steel Setter (Paving)	6.80	6.75	6.20	-	5.50
Reinforcing Steel Setter (Structures)	6.05	-	6.40	5.20	6.25

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Reinforcing Steel Setter Helper	5.70	-	4.90	4.25	5.25
Steel Worker (Structural)	-	-	-	-	6.25
Steel Worker Helper (Structural)	-	-	-	-	5.60
Sign Erector	-	-	-	-	-
Sign Erector Helper	-	-	-	-	-
Spreader Box Man	6.20	6.60	5.80	5.80	-
Swamper	4.90	4.65	5.60	-	5.35
Power Equipment Operators:					
Asphalt Distributor	6.85	6.60	6.25	5.75	5.60
Asphalt Paving Machine	7.10	6.70	6.45	5.80	5.75
Broom or Sweeper Operator	5.15	4.65	5.00	5.20	4.65
Bulldozer 150 HP & Less	6.30	6.25	6.45	5.90	6.15
Bulldozer over 150 HP	7.00	7.05	6.65	6.30	6.50
Concrete Paving Curing Machine	6.50	-	-	-	-
Concrete Paving Finishing Machine	7.00	-	-	-	-
Concrete Paving Form Grader	-	-	-	-	-
Concrete Paving Grinder	7.00	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	-
Concrete Paving Mixer	-	-	-	-	6.00
Concrete Paving Saw	6.00	-	-	5.00	-
Concrete Paving Spreader	-	-	-	-	6.00
Paving Sub Grader	6.50	-	-	-	-
Crane,Clamshell,Backhoe, Derrick,Dragline,Shovel (less than 1½ CY)	6.50	7.60	6.25	6.05	6.20
Crane,Clamshell,Backhoe, Derrick,Dragline,Shovel (1½ CY & Over)	7.80	8.80	7.00	7.00	7.10
Crusher or Screening Plant Operator	6.90	6.35	5.80	-	-
Elevating Grader	-	6.00	-	5.35	-
Foundation Drill Op. (Truck Mounted)	-	7.00	9.00	-	-
Foundation Drill Op. Helper	-	-	5.85	-	-
Front End Loader (2½ CY & less)	6.50	6.00	5.75	4.85	5.30

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Front End Loader (Over 2½ CY)	7.00	6.85	6.55	6.00	6.25
Hoist (Double Drum & Less)	-	-	-	-	-
Mixer (Over 16 CF)	-	-	-	-	-
Motor Grader Operator,Fine Grade	8.20	8.60	8.45	7.50	7.40
Motor Grader Operator	7.20	7.35	6.90	6.75	6.35
Roller,Steel Wheel (Plant-Mix Pavements)	5.95	5.90	5.45	4.85	4.90
Roller,Steel Wheel (Other-Flat Wheel or Tamping)	5.50	6.15	5.25	4.80	4.65
Roller,Pneumatic (self-Propelled)	4.95	5.35	5.25	4.90	4.40
Scrapers (17 CY & Less)	5.95	5.50	6.00	5.35	5.60
Scrapers (over 17 CY)	6.75	7.20	6.20	6.00	5.90
Self-Propelled Hammer	-	-	-	-	-
Side Boom	5.25	-	-	-	4.15
Tractor (Crawler Type) 150 HP & Less	5.80	4.95	5.20	5.50	5.30
Tractor (Crawler Type) over 150 HP	6.15	6.00	6.00	5.75	6.20
Tractor (Pneumatic) 80 HP & Less	-	4.65	5.00	-	4.50
Tractor (Pneumatic) over 80 HP	6.20	6.50	5.50	-	5.25
Traveling Mixer	5.45	-	-	-	5.65
Trenching Machine, Light	-	-	-	5.30	5.25
Trenching Machine, Heavy	-	6.75	-	-	-
Wagon Drill, Boring Machine or Post Hole Driller Operator	5.85	-	6.95	4.70	5.25
Truck Drivers:					
Single Axle, Light	5.40	5.25	5.30	4.95	4.65
Single Axle, Heavy	5.70	5.75	5.40	5.00	4.80
Tandem Axle or Semitrailer	6.00	6.15	5.40	5.40	4.90
Lowboy-Float	-	-	6.65	5.90	5.50
Transit-Mix	-	-	-	-	-
Winch	7.00	-	-	-	4.80
Welder	8.00	7.75	6.00	5.95	6.85
Welder Helper	-	6.00	5.00	-	5.15

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).

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	5.10	-	-	-	-
Asphalt Mechanic	-	-	-	5.35	-
Asphalt Raker	4.90	5.50	5.60	5.65	6.85
Asphalt Shoveler	4.80	-	-	-	5.95
Batching Plant Scaleman	-	5.85	-	-	8.15
Batterboard Setter	-	-	-	-	-
Carpenter	6.75	6.15	6.25	7.35	7.05
Carpenter Helper	5.20	4.95	5.25	5.60	5.55
Concrete Finisher (Paving)	5.45	5.25	6.05	-	7.70
Concrete Finisher Helper (Paving)	4.00	-	5.25	-	6.45
Concrete Finisher (Structures)	6.70	6.25	6.45	6.35	7.05
Concrete Finisher Helper (Structures)	-	5.25	4.80	5.30	5.80
Concrete Rubber	4.45	-	5.50	-	-
Electrician	-	-	9.90	12.70	9.75
Electrician Helper	-	-	6.85	-	6.85
Form Builder (Structures)	6.75	6.80	6.60	5.50	7.20
Form Builder Helper (Structures)	-	5.50	6.25	-	5.65
Form Liner (Paving & Curb)	-	-	-	-	7.20
Form Setter (Paving & Curb)	-	-	5.00	-	6.40
Form Setter Helper (Paving & Curb)	-	-	-	-	5.85
Form Setter (Structures)	5.40	6.20	6.20	6.60	7.15
Form Setter Helper (Structures)	4.50	5.00	5.50	5.75	5.65
Laborer, Common	4.00	4.55	4.45	4.45	4.85
Laborer, Utility Man	4.95	4.95	5.10	4.90	5.45
Manhole Builder, Brick	-	-	-	-	-
Mechanic	5.90	6.80	7.65	7.10	7.75
Mechanic Helper	4.85	5.30	5.65	-	5.90
Oiler	5.20	6.85	-	6.00	6.75
Serviceman	4.85	6.00	5.25	5.60	6.30
Painter (Structures)	-	-	-	-	10.00
Piledriverman	-	-	-	-	-
Pipelayer	5.00	5.85	5.25	5.50	6.45
Pipelayer Helper	4.50	-	-	-	5.25
Pneumatic Mortarman	-	-	-	-	-
Powderman	-	-	6.00	-	-
Reinforcing Steel Setter (Paving)	-	-	5.50	-	6.05

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Reinforcing Steel Setter (Structures)	6.40	5.95	6.20	5.45	7.25
Reinforcing Steel Setter Helper	5.10	-	4.75	5.10	5.50
Steel Worker (Structural)	-	-	-	-	6.50
Steel Worker Helper (Structural)	-	-	-	-	-
Sign Erector	-	-	-	-	7.10
Sign Erector Helper	-	-	-	-	-
Spreader Box Man	-	5.65	5.40	5.75	5.40
Swamper	-	-	5.15	5.00	-
Power Equipment Operators:					
Asphalt Distributor	5.20	6.25	6.00	6.05	6.30
Asphalt Paving Machine	5.60	6.85	6.75	5.55	7.05
Broom or Sweeper Operator	-	5.25	5.15	4.85	5.20
Bulldozer 150 HP & Less	4.90	6.25	6.05	5.60	6.80
Bulldozer over 150 HP	5.85	6.55	7.60	6.00	7.50
Concrete Paving Curing Machine	-	-	-	-	7.70
Concrete Paving Finishing Machine	5.25	-	-	-	7.40
Concrete Paving Form Grader	-	-	-	-	-
Concrete Paving Grinder	-	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	-
Concrete Paving Mixer	-	-	-	-	7.75
Concrete Paving Saw	-	-	-	-	6.75
Concrete Paving Spreader	-	-	-	-	7.55
Paving Sub Grader	-	-	-	-	-
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	5.45	5.65	6.80	6.55	7.30
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	7.50	7.15	8.00	8.45	8.00
Crusher or Screening Plant Operator	-	4.75	-	-	-
Elevating Grader	-	-	-	-	-
Foundation Drill Op. (Truck Mounted)	-	-	-	8.15	10.15

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Foundation Drill Operator Helper	-	-	-	5.15	5.70
Front End Loader (2½ CY & Less)	5.10	-	-	5.80	6.55
Front End Loader (Over 2½ CY)	5.70	6.15	6.70	7.00	7.60
Hoist (Double Drum & Less)	-	-	-	-	-
Mixer (Over 16 CF)	-	-	-	-	8.00
Motor Grader Operator, Fine Grade	6.55	7.80	7.85	7.45	8.10
Motor Grader Operator	5.70	6.65	7.00	6.65	7.15
Roller, Steel Wheel (Plant-Mix Pavement)	4.70	5.65	5.00	5.40	6.60
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.35	5.40	5.10	5.25	5.90
Roller, Pneumatic (Self-Propelled)	4.45	4.90	4.95	4.70	5.65
Scrapers (17 CY & Less)	4.80	5.85	5.60	5.30	6.85
Scrapers (Over 17 CY)	5.25	6.10	6.35	5.65	7.10
Self-Propelled Hammer	-	-	-	-	5.50
Side Boom	-	-	-	6.00	-
Tractor (Crawler Type) 150 HP & Less	4.00	-	5.15	-	6.80
Tractor (Crawler Type) over 150 HP	6.75	6.20	6.35	-	7.25
Tractor (Pneumatic) 80 HP & Less	4.25	4.65	4.80	4.90	6.25
Tractor (Pneumatic) over 80 HP	4.70	5.60	6.00	5.25	6.50
Traveling Mixer	5.05	5.15	-	-	-
Trenching Machine, Light	-	-	-	-	-
Trenching Machine, Heavy	-	-	-	6.25	-
Wagon Drill, Boring Machine or Post Hole Driller Operator	-	-	5.05	-	6.50
Truck Drivers:					
Single Axle, Light	4.30	4.95	5.00	5.15	5.70
Single Axle, Heavy	4.50	5.50	-	5.40	5.95
Tandem Axle or Semi-trailer	4.45	5.65	5.50	5.55	5.90

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Lowboy-Float	5.00	-	-	-	-
Transit-Mix	-	-	-	-	6.00
Winch	-	5.20	-	-	6.55
Welder	6.50	6.65	-	-	7.50
Welder Helper	-	-	-	-	6.50

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)).

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	-	-	-	-	6.55
Asphalt Heaterman	-	5.50	-	-	5.02
Asphalt Raker	7.75	6.80	5.35	5.15	6.55
Asphalt Shoveler	5.00	4.90	4.65	-	6.45
Batching Plant Scaleman	6.50	5.40	6.50	-	7.45
Batterboard Setter	-	-	-	-	-
Carpenter	6.90	6.70	7.75	7.00	8.25
Carpenter Helper	5.40	5.80	6.10	5.65	6.35
Concrete Finisher (Paving)	7.50	7.15	7.65	6.00	7.90
Concrete Finisher Helper (Paving)	5.85	-	6.00	-	5.75
Concrete Finisher (Structures)	6.80	6.50	6.90	7.30	7.95
Concrete Finisher Helper (Structures)	6.05	5.55	5.90	6.50	5.85
Concrete Rubber	4.95	-	5.50	-	7.00
Electrician	11.25	8.60	-	-	14.05
Electrician Helper	7.50	6.80	-	-	8.95
Form Builder (Structures)	7.05	6.80	6.25	7.45	7.05
Form Builder Helper (Structures)	5.35	5.75	5.50	5.50	6.00
Form Liner (Paving & Curb)	7.25	6.90	6.90	-	8.00
Form Setter (Paving & Curb)	6.85	6.85	6.60	6.50	7.05
Form Setter Helper (Paving & Curb)	6.20	5.50	5.00	6.00	5.80
Form Setter (Structures)	6.85	7.15	7.20	7.70	7.45
Form Setter Helper (Structures)	5.45	5.80	5.70	6.10	5.90
Laborer, Common	4.70	4.55	4.65	4.55	4.95
Laborer, Utility Man	5.05	5.40	5.15	5.15	5.70
Manhole Builder, Brick	-	-	-	-	6.55
Mechanic	8.00	7.00	7.25	7.75	8.45
Mechanic Helper	6.25	-	-	-	6.90
Oiler	6.45	6.20	6.10	5.50	7.25
Serviceman	6.50	5.45	-	6.25	7.30
Painter (Structures)	-	-	-	-	-
Piledriverman	-	-	-	-	8.45

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Pipelayer	6.10	6.75	5.00	5.50	6.30
Pipelayer Helper	5.30	5.85	4.75	-	5.40
Pneumatic Mortarman	5.50	-	-	-	-
Powderman	-	-	-	-	-
Reinforcing Steel Setter (Paving)	5.45	5.50	-	-	-
Reinforcing Steel Setter (Structures)	6.40	6.00	6.05	6.00	7.25
Reinforcing Steel Setter Helper	4.85	5.00	-	-	5.60
Steel Worker (Structural)	-	-	-	-	7.40
Steel Worker Helper (Structural)	-	-	-	-	5.55
Sign Erector	8.40	-	-	-	-
Sign Erector Helper	7.00	-	-	-	-
Spreader Box Man	6.60	6.60	5.75	5.35	7.00
Swamper	5.85	-	-	-	-
Power Equipment Operators:					
Asphalt Distributor	6.50	6.25	6.05	5.05	6.45
Asphalt Paving Machine	7.40	6.75	6.55	5.65	7.60
Broom or Sweeper Operator	5.25	5.00	4.65	4.85	6.25
Bulldozer 150 HP & Less	6.80	6.30	6.35	5.50	7.15
Bulldozer over 150 HP	7.55	6.75	7.30	7.25	8.10
Concrete Paving Curing Machine	6.75	6.75	-	-	6.50
Concrete Paving Finishing Machine	6.75	6.90	-	-	7.70
Concrete Paving Form Grader	5.50	-	-	-	-
Concrete Paving Grinder	-	7.00	-	-	-
Concrete Paving Joint Machine	6.50	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	7.75
Concrete Paving Mixer	7.85	7.25	-	-	-
Concrete Paving Saw	6.50	6.65	-	-	7.50
Concrete Paving Spreader	6.50	6.00	-	-	7.25
Paving Sub Grader	-	-	-	-	6.05

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Crane,Clamshell,Backhoe, Derrick,Dragline,Shovel (less than 1½ CY)	6.90	6.95	6.80	6.50	7.65
Crane,Clamshell,Backhoe, Derrick,Dragline,Shovel (1½ CY & Over)	7.70	7.60	8.65	8.10	8.85
Crusher or Screening Plant Operator	-	-	-	-	8.50
Elevating Grader	-	-	-	-	-
Foundation Drill Op. (Truck Mounted)	8.50	10.00	-	-	9.40
Foundation Drill Operator Helper	-	6.15	-	-	-
Front End Loader (2½ CY & Less)	6.70	6.35	5.85	5.40	6.35
Front End Loader (Over 2½ CY)	7.20	6.95	6.75	6.55	7.30
Hoist (Double Drum or Less)	-	-	6.50	-	-
Mixer (Over 16 CF)	-	7.00	-	-	6.25
Motor Grader Operator, Fine Grade	8.10	7.85	7.75	8.25	8.75
Motor Grader Operator	7.25	7.10	6.95	6.35	7.80
Roller, Steel Wheel (Plant-Mix Pavements)	7.25	5.85	5.80	5.15	6.75
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	6.05	5.85	5.50	5.20	6.35
Roller, Pneumatic (Self-Propelled)	5.85	5.60	5.80	4.75	6.05
Scrapers (17 CY & Less)	6.50	6.25	6.05	5.25	6.45
Scrapers (Over 17 CY)	7.25	6.35	6.85	7.00	7.35
Self-Propelled Hammer	-	-	-	-	-
Side Boom	4.85	-	-	-	-
Tractor (Crawler Type) 150 HP & Less	-	5.50	6.00	-	-
Tractor (Crawler Type) over 150 HP	6.50	5.80	6.55	-	7.40
Tractor(Pneumatic) 80 HP & Less	5.50	5.00	-	-	6.00
Tractor(Pneumatic)over 80HP	5.90	5.80	-	-	-
Traveling Mixer	-	6.50	-	5.75	5.75
Trenching Machine, Light	-	-	-	-	-
Trenching Machine, Heavy	-	-	5.60	-	10.00

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Wagon Drill, Boring Machine or Post Hole Driller Operator	-	-	-	-	-
Truck Drivers:					
Single Axle, Light	5.75	5.25	5.85	5.15	5.95
Single Axle, Heavy	5.95	5.50	6.00	5.60	6.05
Tandem Axle or Semi-trailer	5.90	5.95	6.05	5.75	6.20
Lowboy-Float	6.55	6.50	7.00	-	6.70
Transit-Mix	6.00	-	-	-	6.00
Winch	-	-	-	-	-
Welder	7.45	7.50	6.60	-	7.80
Welder Helper	6.50	-	5.50	-	6.00

Unlisted classifications needed for work not included within the scope of the classifications listed may be added only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	-				
Asphalt Heaterman	-				
Asphalt Raker	7.[illegible]				
Asphalt Shoveler	-				
Batching Plant Scaleman	-				
Batterboard Setter	-				
Carpenter	8.00				
Carpenter Helper	6.55				
Concrete Finisher (Paving)	8.70				
Concrete Finisher Helper (Paving)	6.75				
Concrete Finisher (Structures)	8.15				
Concrete Finisher Helper (Structures)	6.55				
Concrete Rubber	-				
Electrician	9.50				
Electrician Helper	7.00				
Form Builder (Structures)	8.05				
Form Builder Helper (Structures)	5.80				
Form Liner (Paving & Curb)	-				
Form Setter (Paving & Curb)	8.00				
Form Setter Helper (Paving & Curb)	6.75				
Form Setter (Structures)	7.50				
Form Setter Helper (Structures)	5.80				
Laborer, Common	5.80				
Laborer, Utility Man	6.00				
Manhole Builder, Brick	9.25				
Mechanic	10.00				
Mechanic Helper	7.50				
Oiler	-				
Serviceman	8.45				
Painter (Structures)	-				
Painter Helper (Structures)	-				
Piledriversen	8.10				
Pipelayer	6.50				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Pipelayer Helper	-				
Pneumatic Mortarman	-				
Powderman	-				
Reinforcing Steel Setter (Paving)	6.00				
Reinforcing Steel Setter (Structures)	7.60				
Reinforcing Steel Setter Helper	5.80				
Steel Worker (Structural)	-				
Steel Worker Helper (Structural)	-				
Sign Erector	-				
Sign Erector Helper	-				
Spreader Box Man	-				
Swamper	-				
Power Equipment Operators:					
Asphalt Distributor	8.00				
Asphalt Paving Machine	7.85				
Broom or Sweeper Operator	7.75				
Bulldozer 150 HP & Less	8.00				
Bulldozer over 150 HP	8.80				
Concrete Paving Curing Machine	-				
Concrete Paving Finishing Machine	-				
Concrete Paving Form Grader	-				
Concrete Paving Grinder	-				
Concrete Paving Joint Machine	7.05				
Concrete Paving Joint Sealer	-				
Concrete Paving Longitudinal Float	-				
Concrete Paving Mixer	-				
Concrete Paving Saw	6.50				
Concrete Paving Spreader	-				
Paving Sub Grader	-				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	8.10				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Crane,Clamshell,Backhoe, Derrick,Dragline,Shovel (1½ CY & Over)	9.05				
Crusher or Screening Plant Operator	-				
Elevating Grader	-				
Form Loader	-				
Foundation Drill Operator (Crawler Mounted)	-				
Foundation Drill Op. (Truck Mounted)	-				
Foundation Drill Operator Helper	-				
Front End Loader (2½ CY & Less)	6.75				
Front End Loader (Over 2½ CY)	8.45				
Hoist (Double Drum or Less)	-				
Hoist (Over 2 drums)	-				
Mixer (Over 16 CF)	-				
Mixer (16 CF & Less)	-				
Motor Grader Operator, Fine Grade	9.45				
Motor Grader Operator	8.30				
Roller, Steel Wheel (Plant-Mix Pavements)	7.25				
Roller,Steel Wheel (Other-Flat Wheel or Tamping)	-				
Roller, Pneumatic (Self-Propelled)	6.50				
Scrapers (17 CY & Less)	-				
Scrapers (Over 17 CY)	-				
Self-Propelled Hammer	-				
Side Boom	-				
Tractor (Crawler Type) 150 HP & Less	-				
Tractor (Crawler Type) over 150 HP	-				
Tractor (Pneumatic) 80 HP & Less	-				
Tractor (Pneumatic) over 80 HP	-				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Traveling Mixer	-				
Trenching Machine, Light	-				
Trenching Machine, Heavey	-				
Wagon Drill, Boring Machine or Post Hole Driller Operator	-				
Truck Drivers:					
Single Axle, Light	6.90				
Single Axle, Heavy	7.10				
Tandem Axle or Semitrailer	6.95				
Lowboy-Float	9.75				
Transit-Mix	-				
Winch	-				
Vibrator Man (Hand Type)	-				
Welder	8.85				
Welder 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)).

AREA COVERED BY VARIOUS ZONES

ZONE 1 - Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lipscomb, Montague, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 2 - Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, [illegible], Haskell, Hockley, Jones, Kent, King, [illegible], Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum & Young Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills *, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)
*Not to be used for work on water or sewage treatment plant or lift/pump stations in Mills County

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ZONE 4 - Brewster, Culberson, El Paso *, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams), Water & sewer lines and Highway Projects (does not include building structures in rest area projects)

*Not to be used for Heavy Projects in El Paso County

ZONE 5 - Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson & Zavala Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 6 - Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kenedy, Starr, Webb, Willacy & Zapata Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

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ZONE 7 - Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio & Victoria Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building [illegible] rest area projects) & Incidental Shore Work

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ZONE 8 - Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson * Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)
*Not to be used on work on water or sewage treatment plant or lift pump Stations in Williamson Co

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ZONE 9 - Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro Counties

DESCRIPTION OF WORK Heavy (exluding tunnels, dam & work on water or sewage treatment plant or lift/pump stations) and Highway Projects (does not include building structures in rest area projects)

ZONE 10 - Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant * and Wise Counties

DESCRIPTION OF WORK: Heavy (exluding tunnels & dams), Water & Sewer Lines and Highway Projects (does not include building structures in rest area projects)
*Not to beused for Heavy Projects in Tarrant County

ZONE 11 - Collin, Dallas, Ellis, Grayson & Rockwall Counties

DESCRIPTION OF WORK: Water & sewer lines & Highway Construction Projects Only

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ZONE 12 - Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 13 - Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

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ZONE 14 - Brazos, Burleson, Grimes, Leon *, Madison, Milam *, Robertson *, Walker & Washington Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)
*Not to be used for work on water or sewage treatment plant or lift/pump stations in Leon, Milam & Robertson Cos.

ZONE 15 -Brazoria, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller & Wharton Counties

DESCRIPTION OF WORK: Highway Construction Projects Only

ZONE 16 - Chambers, Hardin, Jefferson *, Liberty & Orange * Counties

DESCRIPTION OF WORK: Heavy Projects (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

*Not to be used for Heavy Projects & Incidental Shore Work in Jefferson & Orange Cos.

SUPERSEDES DECISION

STATE: Texas

COUNTIES: Collin, Cooke, Denton, Ellis, Grayson, Hunt, Kaufman & Rockwall

DECISION NO.: TX83-4054

DATE: Date of Publication

Supersedes Decision No. TX78-4065, dated 6/16/78, in 43 FR 26271

DESCRIPTION OF WORK: Residential projects consisting of single family homes & apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 7.70	
BRICKLAYERS	8.45	
CARPENTERS	8.69	
CEMENT MASONS	9.78	
ELECTRICIANS	8.05	
FORM SETTERS	8.61	
INSULATORS	6.78	
IRONWORKERS	6.30	
LABORERS:		
Unskilled	4.96	
Mason tenders	5.54	
LANDSCAPERS	5.25	
PAINTERS	$ 7.42	
PLASTERERS	11.00	
PLUMBERS	9.00	
ROOFERS	6.06	
SHEET METAL WORKERS	5.50	
SOFT FLOOR LAYERS	7.39	
TRUCK DRIVERS	5.00	
POWER EQUIPMENT OPERATORS:		
Backhoes	7.00	
Bulldozers	6.00	
Loaders	6.50	
Motor graders	7.43	

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)).

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX83-4055
COUNTY: Dallas
DATE: Date of Publication
Supersedes Decision No. TX78-4065, dated 6/16/78 in 43 FR 26271.
DESCRIPTION OF WORK: Residential projects consisting of single family homes & apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 7.89		PAINTERS	$ 7.66	
BRICKLAYERS	9.26		PLUMBERS	9.53	
CARPENTERS	8.66		SHEET METAL WORKERS	7.27	
CEMENT MASONS	9.84		TILE SETTERS	8.00	
ELECTRICIANS	8.72		TRUCK DRIVERS	7.19	
FORM SETTERS	9.57		POWER EQUIPMENT OPERATORS:		
INSULATORS	8.67		Asphalt rakers	7.00	
IRONWORKERS	8.38		Backhoes	8.75	
LABORERS:			Bulldozers	8.21	
Unskilled	5.00		Loaders	8.28	
Brick tenders	5.73		Motor graders	8.25	
LANDSCAPERS	6.00		Pavers	7.50	

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)).

[FR Doc. 83-19611 Filed 7-21-83; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
July 22, 1983

Part III

Department of Energy

Procurement Regulations

DEPARTMENT OF ENERGY

41 CFR Parts 9–1, 9–4, 9–5, 9–7, 9–15, and 9–50

Procurement Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule which revises the DOE Procurement Regulations finalizes portions of two earlier notices of proposed rulemaking. The first of these was published on December 15, 1982, at 47 FR 56256 and was referenced as Change 9. The second of these was published on March 25, 1983, at 48 FR 12564 and was referenced as Change 10. Portions of these two notices have been issued as a separate final rule dealing with profit and fee determination policy. These portions were identified in the earlier notices as Changes 9.11, 9.12, 10.3, and 10.4. The remaining portions of the two earlier notices will be finalized by this rule. The purpose of these revisions is to update the Department's procurement regulations as a result of changes in the Federal Procurement Regulations, to reduce administrative burden, to clarify certain sections and to add new policy guidance regarding cost participation and real estate management under contracts. A detailed explanation of the changes is given below under the seciton entitled "SUPPLEMENTARY INFORMATION."

EFFECTIVE DATE: August 22, 1983.

FOR FURTHER INFORMATION CONTRACT:

Richard Langston, Procurement Policy Branch (MA–421.1), Procurement and Assistance Management, Department of Energy, (202) 252–8188.

Mary Ann Masterson, Office of General Counsel, AGC for Procurement and Financial Incentives (GC44), Department of Energy, (202) 252–1526.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 644 of the Department of Energy Orgnization Act. Pub. L. 95–91, 91 Stat. 565 (41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the Department of Energy Procurement Regulations (DOE-PR) were promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979), 41 CFR Chapter 9.

The specific changes being made by this final rule are as follows: Change 10.1, previously referenced as 10.2 at 48 FR 12564, replaces the existing text of Subpart 9–1.6, "Debarred, Suspended, and Ineligible bidders," in order to implement Temporary Regulation 65 of the Federal Procurement Regulations. The FPR amendment prescribes revised policies and procedures for debarment and suspension by agencies including a requirement that GSA issue a consolidated list of all contractors debarred, suspended, or declared ineligible. The amendment necessitates a revision of current DOE debarment and suspension policy which predates the Government-wide consolidated approach. Prior to Temporary Regulation 65, debarment, suspension and ineligibility determinations were handled by the individual agencies and there was no mechanism by which such actions had Government-wide applicability. The Temporary Regulation changed that by providing that such actions by individual agencies will be reported to GSA which will place the firm on a Government-wide consolidated list of debarred, suspended, or ineligible contractors. The agencies must recognize such debarments unless they can individually justify not doing so. This change also limits the review of debarment or suspension determinations by the DOE Board of Contract Appeals. Previously, the Board had final agency authority to decide debarment cases provided a hearing had been requested. After this change, the decision of the debarring/suspending official shall be final unless the Board sets it aside based on a determination that the decision was arbitrary and capricious or clearly erroneous.

Change 10.2, previously identified as Change 9.1 at 47 FR 56256, is a series of changes to Subpart 9–1.7, "Small Business Concerns." It changes the certification at 9–1.703–1 by correcting erroneous statutory citations and removing unnecessary gender specific references. It deletes paragraph (e) of § 9–1.706–1 which has been superseded by Amendment 222 of the Federal Procurement Regulations. It also changes § 9–1.710–3 by deleting the word "quarterly" from paragraph (c), by abbreviating the title of the clause to read "Small and Disavantaged Business Subcontracting Plan," by increasing the threshold for reports at paragraph (a)(6) of the clause from $10,000 to $100,000, and by adding a paragraph (d) to note that the Contracting Officer may relieve a prime contractor from monitoring subcontracting plans under circumstances described at OFPP Policy Letter 80–2. Most of these changes are insignificant and amount to corrections or clarifications.

Change 10.3, previously identified as Change 9.2 at 47 FR 56256, removes §§ 9–1.802–1 and 9–1.805. The first of these was duplicative of FPR § 1–1.802–1 and the second involved manual maintenance of information at the local level which is now available from the Department's automated Procurement and Assistance Data System.

Change 10.4, previously identified as Change 9.3 at 47 FR 56256, revises Subpart 9–1.10 entitled "Publicizing Procurement Actions." It deletes guidance at 9–1.1004 regarding classified procurements as the topic is adequately covered at FPR § 1–1.1003–2(a)(1). It also adds new guidance at § 9–1.1050 entitled "Congressional Notification." The new guidance simply affirms the Courtesy to be granted Congressional inquiries and specifies dollar thresholds at which advance notifications of awards will be routinely given.

Change 10.5, previously identified as Change 9.4 at 47 FR 56256, adds a new Subpart 9–1.52 entitled "Women-Owned Business Concerns." The FPR requires that all contracts over $500,000 (a higher threshold of $1,000,000 exists for public facility construction contracts) contain a Women-Owned Busines Concerns Subcontracting Program clause. The new DOE-PR guidance provides that the clause need not be included in contracts that do not have subcontracting opportunities since there are no benefits to be realized in such instances. This will eliminate an administrative burden.

Change 10.6, previously identified as Change 9.5 at 47 FR 56256, revises Subpart 9–1.54, "Organizational Conflicts of Interest." It adds new guidance at §§ 9–1.5408–1 and 9–1.5408–2 to alert contractors to the need to update disclosure statements when significant new work is added to a contract. It also adds an Example 12 to describe a means of avoiding organizational conflicts of interest during competitive evaluations.

Change 10.7, previously identified as 9.6 at 47 FR 56256, removes § 9–2.406–4, "Disclosure of mistakes after award," as the need for this coverage was eliminated by FPR Amendment 204.

Change 10.8, previously identified as Change 10.5 at 48 FR 12564, adds new policy guidance to Subpart 9–4.59, "Cost Participation." The policy guidance covers the evaluation and valuation of in-kind contributions provided by a performing contractor or non-federal third party as part of cost participation requirements. In-kind contributions represent noncash contributions

provided by the performing contractor or a non-Federal third party who is participating with DOE in a co-sponsored project or contract. The provisions require that in-kind contributions must be verifiable, exclusive to the DOE project or contract, necessary for effective project accomplishment, representative of charges allowable under applicable Federal cost principles, and that they have not been previously paid for by the Government. In-kind contributions are generally valued on a cost basis, not to exceed fair market value.

Change 10.9, previously identified as Change 10.6 at 48 FR 12564, adds a new Subpart 9–4.60, "Acquisition, Use and Disposal of Real Estate." It establishes policies and procedures to be followed under cost-type contracts which require contractors to acquire, use or dispose of real property or interest therein on behalf of the Department.

Change 10.10, previously indentified as Change 9.7 at 47 56256, amends Section 9–5.5203–1, "Regulations." It provides that printing may be included in contracts for other services if it is not practical to separate this activity from the other work and if the contractor acquires such printing from the Government Printing Office (GPO) or a GPO designated source.

Change 10.11, previously identified as Change 9.8 at 47 FR 56256, amends § 9–5.5205, "Helium," at § 9–5.5205–3(a) to indicate a change of mailing address and at § 9–5.5205–3(c) to delete the phrase "as defined by Parts 601 and 602, Subchapter A, Chapter VI, Title 30, Code of Federal Regulations," and to place a period after the word "helium" to indicate the new end of the sentence resulting from the test deletion.

Change 10.12, previously identified as Change 9.9 at 47 FR 56256, revises § 9–7.302–57, "Printing." The change provides that contractors may be authorized to obtain printing on DOE's behalf directly from the Government Printing Office.

Change 10.13, previously identified as Change 9.10 at 47 FR 56256, revises § 9–15.205–61, "Printing costs" to reflect the change at 10.12 with respect to allowable costs.

Change 10.14, previously identified as Change 10.7 at 48 FR 12564, adds a new §9–50.508, "Real Estate Management" which makes the provisions of new Subpart 9–4.60, being added by Change 10.9, applicable to operating and on-site contracts.

Change 10.15, previously identified as Change 9.13 at 47 FR 56256, amends § 9–50.704–49, "Printing" to define the term and provide further guidance for operating contracts in accordance with Change 10.9.

II. Public Comments

Notices of proposed rulemaking for the final rule being promulgated today were published in the **Federal Registers** of December 15, 1982, 47 56256 (referred to therein as proposed changes 9.1 through 9.10 and 9.13), and of March 25, 1983, 48 FR 12564 (referred to therein as proposed changes 10.2 and 10.5, through 10.7), inviting public comments for 30-day periods ending January 14, 1983, and April 25, 1983, respectively. Comments were received from two sources. The following summarizes the comments and suggestions pertinent to the proposed DOE-PR revisions and actions taken in response thereto.

One reviewer wrote concerning the revisions being made at Subpart 9–1.6 entitled "Debarment, Suspension, and Ineligible Bidders." The writer focused upon §§ 9–1.650.3 and 9–1.650–5 and expressed concern as to whether the contractor would have sufficient opportunity to contest a debarment proceeding by putting into the record information which would support a determination not to debar. This Subpart implements Temporary Regulation 65 of the Federal Procurement Regulations. The necessary safeguards for a contractor to defend itself against debarment are found in the FPR at § 1–1.605–3(c) which affords the contractor the opportunity to submit information into the record in opposition to the proposed debarment.

Another commenter questioned DOE's requirement at § 9–1.710–3(c) under paragraph (a)(6) of the clause entitled "Small and Disadvantaged Business Subcontracting Plan." The requirement is for contractors, whose contracts contains the clause, to notify the Contracting Officer before soliciting proposals when they are unable to identify a small or disadvantaged source if the subcontract requirement exceeds $100,000. The intent is to further aid those contractors in locating such firms. The reviewer felt that the clause had been superseded by the more recent OFPP Policy Letter 80–2 which contains a similar clause for solicitations. The difficulty with simply adopting the clauses in OFPP Policy Letter 80–2 is that they are general solicitation clauses without the detail needed for actual contract administration. For this reason, the Department has maintained its separate contract clause at § 9–1.710–3 as has NASA at 41 CFR 19–1.707–3 and DOD at 32 CFR 7–104.14. When the Federal Acquisition Regulation becomes effective, the Department will no longer maintain separate clauses as the FAR clauses at Part 52 of that regulation will contain adequate detail. The same reviewer felt that the requirement is an unnecessary burden. The Department is increasing the threshold for this notification from $10,000 to $100,000. This increase should resolve such concern as only the most significant subcontract requirements will need this notification. Potential benefits should outweigh any possible nuisance factor associated with the notification.

No changes have been made as the result of the comments received. This final rule is essentially the same as proposed in the applicable portion of the two notices proposed at 47 FR 56256 and 48 FR 12564.

III. Statutory and Regulatory Requirements

A. Review Under Executive Order 12291

Inasmuch as this final rule relates to agency management of the procurement function, the OMB clearance procedures set forth in Executive order 12291 (February 17, 1981) are not applicable.

B. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this final rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 1 CFR Parts 9–1, 9–4, 9–5, 9–7, 9–15, 9–50

Government procurement, Reporting and recordkeeping requirements, Small business, Nuclear materials, Accounting, Labor.

For the reasons set out in this preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., July 14, 1983.

Berton J. Roth,

Deputy Director, Procurement and Assistance Management Directorate.

Change 10.1

Change 10.1 replaces the existing text of Subpart 9–1.6 "Debarred, Suspended, and Ineligible Bidders" in order to implement Federal Procurement Regulations Temporary Regulation No. 65. The FPR amendment prescribes revised policies and procedures for debarment and suspension by agencies,

including a requirement that GSA issue a consolidated list of all contractors debarred, suspended, or declared ineligible. The amendment necessitates a revision of current DOE debarment and suspension policy. Subpart 9–1.6 is revised to read as follows:

Subpart 9–1.6—Debarment, Suspension, and Ineligibility.

Sec.

Authority: Sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Subpart 9–1.6—Debarment, Suspension, and Ineligibility

§ 9–1.600 Scope of subpart.

This subpart implements and supplements the policies and procedures set forth in FPR Subpart 1–1.6 relating to the debarment, suspension, or ineligibility of contractors for any cause.

§ 9–1.603 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

The Senior Procurement Official, Headquarters, shall establish and maintain a list of firms or individuals debarred, suspended, or declared ineligible for contracts with DOE and DOE contractors. This list shall be in addition to the GSA Consolidated List of Debarred, Suspended, and Ineligible Contractors. The Senior Procurement Official, Headquarters, shall periodically publish this list and distribute it to DOE Contracting Officers. DOE procuring activities shall refer to the GSA and the DOE lists before soliciting offers from, awarding contracts to, renewing or otherwise extending the duration of an existing contract with, or consenting to subcontracts with a contractor.

§ 9–1.603–1 Basis for entry on DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors.

The Senior Procurement Official, Headquarters, shall place all organizations and individuals debarred, suspended, or declared ineligible by DOE in accordance with FPR Subpart 1–1.6 on the DOE Consolidated List of Debarred, Suspended, and Ineligible Contractors as soon as a determination is made of debarment, suspension, or ineligibility. DOE debarments and suspensions in accordance with FPR Subpart 1–1.6 are subject to the procedural requirements in § 9–1.650.

§ 9–1.604 Treatment to be accorded firms or individuals in debarred, suspended, or ineligible status.

DOE shall treat contractors who have been debarred, suspended, or declared ineligible as provided in FPR 1–1.604.

§ 9–1.650 Agency procedure.

§ 9–1.650–1 DOE procedural requirements.

This section establishes DOE internal procedures pursuant to FPR Subpart 1–1.605–3(b)(1) and 1–1.606–3(b)(1).

§ 9–1.650–2 Reporting procedures.

Heads of Procuring Activities, or designees, are responsible for reporting any evidence of offenses or irregularities which may be grounds for debarment, suspension, or ineligibility. The report shall be made to the Senior Procurement Official, Headquarters. A copy of the report shall be forwarded concurrently to the Inspector General. The report shall contain a full statement of facts, and shall be supported by appropriate exhibits. If all necessary information is not readily available, a preliminary report shall be forwarded to be followed as soon as practicable by a completely documented report.

§ 9–1.650–3 Collection of information and investigation.

The Senior Procurement Official, Headquarters, shall collect and evaluate information to determine whether an alleged offense or irregularity warrants the initiation of a debarment or suspension proceeding.

§ 9–1.650–4 Initiation of action.

The Senior Procurement Official, Headquarters, with the concurrence of Counsel and after consultation with appropriate offices, shall determine whether causes and conditions exist to initiate a debarment and/or suspension action. The Senior Procurement Official, Headquarters, is both the debarring and the suspending official.

§ 9–1.650–5 Appeal of debarring/suspending official's decision.

All decisions of the debarring/suspending official are subject to appeal before the DOE Board of Contract Appeals upon the request of the debarred or suspended contractor. Notification of intent to appeal must be filed with the Board within 30 days after the date of the contractor's notification of debarment or suspension. The appeal of the decision of the debarring/suspending official will be based on the record before the debarring/suspending official. The decision of the debarring/suspending official shall be final and not be set aside by the Board unless the decision is arbitrary and capricious or clearly erroneous.

§ 9–1.650–6 Notice of suspension or final debarment determination.

The Senior Procurement Official, Headquarters, shall promptly notify all Senior Program Officials and Heads of Procuring Activities of all suspension and debarment actions taken pursuant to this subpart.

Change 10.2

Change 10.2 makes several changes in Subpart 9–1.7, "Small Business Concerns." The Subpart is amended at § 9–1.703–1 to clarify the text and correct a statutory citation by substituting "15 U.S.C. 632" for the erroneous references "15 U.S.C. 832" at paragraph (a) and "15 U.S.C. 637," at paragraph (c)(2); at 9–1.706–1 by removing and reserving paragraph (e) which has been superseded by Amendment 222 of the Federal Procurement Regulations, and at 9–1.710–3 by abbreviating the title of the clause to read "Small and Disadvantaged Business Subcontracting Plan", by placing a "(b)" before the second paragraph, by removing the word "quarterly" from paragraph (c), by capitalizing the first word of paragraph (a) of the clause, by substituting "$100,000" for "$10,000" in paragraph (a)(6) of the clause, by removing the word "quarterly" from paragraph (a)(9) of the clause, and by adding a new paragraph (d) following the text of the clause to emphasize that a prime contractor may be relieved of the duty of monitoring subcontracting plans under certain circumstances. The revised text will read:

Subpart 9–1.7—Small Business Concerns

* * * * *

§ 9-1.703-1 Certification.

The following certifications are to be used in procurements exceeding $10,000:

(a) The offeror certifies that its organization is (/) is not (/) a small business concern as defined at Section 3 of the Small Business Act (15 U.S.C. 632 and SBA's rules and regulations set forth at 13 CFR 121.3-8). If an affirmative certification is made, the offeror shall complete the certifications at paragraph (b) and (c) of this section.

(b) The offeror certifies that its organization is a small business as set forth in paragraph (a) of this section and that it is (/) or is not (/) owned and controlled by socially and economically disadvantaged individuals. Such a firm is defined as one:

(1) Which is at least 51 per centum owned by one or more such individuals or, in the case of a publicly owned business, at least 51 per centum of the stock is owned by such individuals.

(2) Whose management and daily business operations are controlled by one or more such individuals; and

(3) Which certifies said ownership and control is by the following: (i) United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or other specified minorities; or (ii) Any other individual found to be disadvantaged pursuant to section 8(a) of the Small Business Act (15 U.S.C. 632).

Failure to execute all parts of the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

* * * * *

§ 9-1.706 Procurement set-aside for small business.

§ 9-1.706-1 General.

* * * * *

(e) [Reserved]

* * * * *

§ 9-1.710-3 Required clauses.

* * * * *

(c) The following contract clause is to be included in formally advertised and negotiated procurements when there is a requirement for a small and small disadvantaged business subcontracting plan. Contracting Officers may modify this clause to specify the forms on which reports are to be submitted.

"Small and Disadvantaged Business Subcontracting Plan."

(a) The contractor agrees to comply in good faith with the Small and Disadvantaged Business Subcontracting Plan which is hereby incorporated in and made a part of this contract. In this connection, the contractor shall:

* * * * *

(6) Notify the Contracting Officer before soliciting bids, quotations, or proposals on any subcontract (including purchase orders) in excess of $100,000 if:

* * * * *

(9) Submit reports of subcontracts to small and disadvantaged business concerns on such forms as may be specified elsewhere in this contract.

* * * * *

(d) In accordance with Supplement Number 1 of OFPP Policy Letter 80-2, Contracting Officers are authorized to relieve a prime contractor from his obligation to monitor subcontracting plans when deemed appropriate.

* * * * *

Change 10.3

Change 10.3 amends Subpart 9-1.8, "Labor Surplus Area Concerns," by removing and reserving § 9-1.802-1, "General Policy," because it is duplicative of FPR 1-1.802-1, and by removing and reserving § 9-1.805, "Subcontracting with labor surplus concerns," which requires manual maintenance of information at the local level which is now available from the Department's automated Procurement and Assistance Data System. The revised text will read:

Subpart 9-1.8—Labor Surplus Area Concerns

* * * * *

§ 9-1.802-1 [Reserved]

§ 9-1.805 [Reserved]

Change 10.4

Change 10.4 amends Subpart 9-1.10, "Publicizing Procurement Actions" by removing and reserving § 9-1.1004, "Synoposes of Contract Awards." The material previously at § 9-1.1004 concerned classified procurements and Congressional notification. Adequate guidance regarding synopsis of classified procurements is provided at FPR 1-1.1003-2(a)(1). Guidance regarding Congressional notification will be the topic of a new § 9-1.1050, "Congressional Notification," added by this change. The revised text will read:

Subpart 9-1.10—Publicizing Procurement Actions

* * * * *

§ 9-1.1004 [Reserved]

§ 9-1.1050 Congressional notification.

(a) *Individual requests.* In addition to having access to the information available to the general public, Members of Congress shall, upon their request, be given full and detailed information regarding any particular Departmental procurement. The information provided shall be fully responsive to the member's request unless such a response would disclose classified matter, information not to be released pursuant to law, business confidential information or information which would be prejudicial to the competitive process. The Contracting Officer shall promptly consult with appropriate specialists such as security analysts or legal counsel and the Office of Congressional Affairs to determine whether circumstances exist which will allow the release of additional information. In such instances, the Congressional requestor shall be furnished an interim reply furnishing the information which is readily releasable. The interim reply shall describe the problem which precludes release of any requested material and describe generally what steps, if any, are being taken to make such information available.

(b) *Required Notices of Award.* The Office of Congressional Affairs, Headquarters, is responsible for advising Members of Congress regarding Departmental activities likely to have an impact on their constituents. To facilitate this advice, Contracting Officers shall notify the Office of Congressional Affairs regarding pending awards for significant new starts or modifications significantly expanding the previous scope of a contract. The transmittal of such notices to the Office of Congressional Affairs shall be as follows:

(i) Notice of awards of $500,000 or greater, but less than $1,000,000 shall be forwarded 48 hours prior to the time of contract execution.

(ii) Notice of awards of $1,000,000 or greater shall be forwarded 48 hours prior to the public announcement of source selection.

* * * * *

Change 10.5

Change 10.5 adds a new Subpart 9-1.52, "Women-Owned Business Concerns," to provide that the related subcontracting program clause need not be used in contracts not having subcontracting opportunities. Currently, all contracts exceeding $500,000 (a higher threshold of $1,000,000 exists for public facility construction contracts) must contain the Women-Owned Business Concerns Subcontracting Program clause. This action will eliminate the burden and expense of operating such a program when

subcontracting opportunities do not exist since there are no benefits to be realized. The contracts will still contain the "Utilization of Women-Owned Business Concern" clause to assure that all contractors are aware of the Federal policy in this regard and that women-owned business concerns are considered in any subcontracting done thereunder. The revised text will read:

Subpart 9–1.52—Women-Owned Business Concerns

Sec.
9–1.5200 Scope of subpart.
9–1.5201 Subcontracting program clause.

Authority: Sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Subpart 9–1.52—Women-Owned Business Concerns

§ 9–1.5200 Scope of subpart.

This subpart implements and supplements the policies set forth in FPR Temporary Regulation 54.

§ 9–1.5201 Subcontracting program clause.

The Women-Owned Business Concerns Subcontracting Program Clause is to be included in DOE procurements meeting the dollar thresholds established by FPR Temporary Regulation 54 only when subcontracting opportunities exist.

Change 10.6

Change 10.6 amends Subpart 9–1.54, "Organizational Conflicts of Interest," at § 9–1.5408–1 to add a new paragraph (e) to the "Organizational Conflicts of Interest-General" clause, at § 9–1.5408–2 to add a new paragraph (g) to the "Organizational Conflicts of Interest-Special" clause, at § 9–1.5411 to substitute a new second sentence, and at Appendix A to add a new section titled "Example 12." The changes at §§ 9–1.5408–1 and 9–1.5408–2 are to alert contractors to the requirement to update disclosure statements if additional work is added to an existing contract. The change at 9–1.5411 emphasizes the importance of including appropriate coverage in existing contracts during renewal negotiations. The new example is added to describe a means of avoiding organizational conflicts of interest during competitive evaluations. The revised text will read:

Subpart 9–1.54—Organizational Conflicts of Interest

* * * * *

§ 9–1.5408–1 General contract clause.

* * * * *

(e) Prior to a contract modification when the statement of work is modified to add new work, the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation (see 9–1.5407), or an update of the previously submitted disclosure or representation.

§ 9–1.5408–2 Special contract clause.

* * * * *

(g) *Modifications.* Prior to a contract modification when the statement of work is modified to add new work, the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation (see 9–1.5407), or an update of the previously submitted disclosure or representation.

* * * * *

§ 9–1.5411 DOE management contractor, subcontractors and consultants.

The missions and functions of the Department require the use of contractors to operate and manage the Department's facilities on a long-term basis pursuant to Part 9–50. When the annual fee or work of such an operating contract is negotiated, the Contracting Officer shall exercise special care in incorporating an appropriate organizational conflict of interest provision therein. Whenever an operating contract is not to be renewed, but a new selection is to be made, the disclosure or representation requirement of § 9–1.5407 and an appropriate clause should be included in the solicitation and resulting contract. In preparing such clause, the Contracting Officer shall consider provisions which assure appropriate restraints on intercorporate relations between the contractor's organization and personnel operating the Department's facility and its parent corporate body and affiliates, including personnel access to the facility, technical transfer of information from the facility, and the availability from the facility of other advantages flowing from performance of the contract. The subcontractors and consultants of Department's Operating Contractors should be, to the extent feasible, made subject to the requirements of this subpart as if they were performing the work as prime contractors to the Department.

Appendix A—Examples of Contractual Situations or Relationships—Organizational Conflicts of Interest

* * * * *

Example 12

Firm A, because of its unique technical expertise, has been requested to assist the Department in the evaluation of proposals which will result from a competitive solicitation. Firm A also plans to submit a proposal in response to this same solicitation.

Guidance. Normally this would constitute a conflict and Firm A should be precluded from participating in the solicitation. In a particular case, it may be desirable (e.g. when the competitive field is narrow) to allow a separate division or affiliate of Firm A to submit a proposal; but in such a case, of course, Firm A would not itself participate in the evaluation of this proposal, which would be undertaken by DOE personnel or another firm.

Change 10.7

Change 10.7 removes § 9–2.406–4, "Disclosure of mistakes after award," because the need for this guidance was eliminated by FPR Amendment 204. The text will read:

§ 9–2.406–4 [Reserved]

* * * * *

Change 10.8

Change 10.8 adds new policy guidance to Subpart 9–4.59, "Cost Participation." The policy guidance covers the evaluation and valuation of in-kind contributions provided by a performing contractor or non-Federal third party as part of cost-participation requirements. Section 9–4.5907 is added to Subpart 9–4.59 to read as follows:

Subpart 9–4.59—Cost Participation

§ 9–4.5907 In-kind Contributions.

(a) In-kind contributions represent noncash contributions provided by the performing contractor or a non-Federal third party who is participating with DOE in a co-sponsored project or contract. In-kind contributions may be in the form of personal property (equipment and supplies), real property (land and buildings) or services which are directly beneficial, specifically identifiable and necessary to performance of the project or program.

(b) In-kind contributions proposed to the DOE as part of a performer's cost participation must meet all of the following criteria before acceptance.

(1) Are verifiable from the performer's books and records, if performer donated;

(2) Are not included as contributions for any other Federal program;

(3) Are necessary to effective and efficient accomplishment of project objectives;

(4) Are provided for types of charges that would otherwise be allowable under applicable Federal cost principles appropriate to the contractor's organization; and

(5) Are not paid for by the Federal Government under any contract, agreement or grant, unless specifically authorized by legislation.

(c) In-kind contributions accepted from a performer will be valued as set forth below provided the established values do not otherwise exceed fair market values.

(1) Where the Government receives title to donated land, buildings, equipment or supplies and the property is not fully consumed during performance of the co-sponsored project, the property's in-kind value should be established based on the performer's booked cost (i.e., acquisition cost less depreciation, if any) at the time of donation. In the event the booked costs reflect totally unrealistic values when compared to current market conditions, another appropriate value may be established if supported by an independent appraisal of the fair market value of the donated property or property in similar condition and circumstance.

(2) The value of any services or the use of personal or real property donated by a performer should be established, when necessary to do so, in accordance with generally accepted accounting policies and the appropriate Federal cost principles applicable to the performer's organization.

(d) Values established for in-kind contributions accepted from a non-Federal third party should be reasonable and shall not exceed the fair market value of the item at the time of donation. Specific requirements for selected in-kind items involving third party donors are as follows:

(1) *Donated Employee Services.* Employee services donated by a non-Federal third party shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and indirect costs) provided the donated services require use of the same skills for which the employee is normally paid. Otherwise, the rate of pay, for valuation purposes, shall be consistent with the rates paid for similar work in the labor market in which the performer competes for such skills.

(2) *Volunteer Services.* Rates used to value volunteered personal services of professional, clerical, or other individuals should be consistent with those regular rates paid by the performer for similar work and be established in accordance with the procedures specified in sub-paragraph (1) above.

(3) *Property.* Values for personal or real property, or the use thereof, donated by a non-Federal third party shall be established, dependent upon the donor's intended disposition of the property upon project completion, as follows:

(i) When title is donated at no cost to the Government or the property will be fully consumed during project performance, a reasonable value not in excess of the fair market value of the donated property, or comparable property in similar condition, shall be established provided the fair market value of land or buildings is established by an independent appraisal.

(ii) When title is retained by the donor or acquired by the performer, reasonable usage values not in excess of the fair rental value of the donated property or comparable property shall be established provided the fair rental value of donated space is established by an independent appraisal.

Change 10.9

Change 10.9 adds a new Subpart 9–4.60, "Acquisition, Use and Disposal of Real Estate." It establishes policies and procedures to be followed under cost-type contracts which require contractors to acquire, use or dispose of real property or interest therein on behalf of the Department. Subpart 9–4.60 is added to Part 9–4 to read as follows:

Subpart 9–4.60—Acquisition, Use, and Disposal of Real Estate

Sec.

Authority: Sec. 644 of the Department of Energy Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Subpart 9–4.60—Acquisition, Use and Disposal of Real Estate

§9–4.6000 Scope of Subpart.

This subpart addresses DOE policies and procedures to be applied in DOE cost-type contracts which include authorization to acquire, use, and dispose of real estate or interests therein for the performance of a contract or contracts; and, DOE assumes liability for, or otherwise will pay, or may be expected to pay, for the acquired real estate as a reimbursable contract cost.

§9–4.6001 General.

Ordinarily Government agencies are not directly concerned with the real estate management procedures for fixed price or cost-type contractors. However, special circumstances and situations arise under cost-type contracts when, in the performance of their contract or subcontract, the performer shall be required, or otherwise find it necessary, to acquire real estate or interests therein by:

(a) Purchase, on DOE's behalf or in their own name, with title eventually vesting in the Government.

(b) Lease, and DOE assumes liability for, or otherwise will pay for the obligation under the lease.

(c) Acquisition of temporary interest through easement, license or permit, and DOE funds the cost of the temporary interest.

§9–4.6002 Policy.

It is the policy of the Department of Energy that when the real estate acquisitions described in §9–4.6001 are made, or are expected to be made, the following policies and procedures shall be applied to such acquisitions:

(a) Real estate acquisitions shall be mission essential; effectively, economically, and efficiently managed and utilized; and disposed of promptly, when not needed;

(b) Acquisitions shall be justified, with documentation which describes the need for the acquisition, general requirements, cost, acquisition method to be used, site investigation reports, site recommended for selection, and property appraisal reports; and

(c) Acquisition by lease, in addition to the requirements in paragraphs (a) and (b) of this section:

(1) Shall not exceed a one-year term if funded by one-year appropriations.

(2) May exceed a one-year term, when the lease is for special purpose space funded by no-year appropriations and approved by the Department.

(3) Shall contain an appropriate cancellation clause which limits the Government's obligation to no more than the amount of rent to the earliest cancellation date plus a reasonable cancellation payment.

(4) Shall be consistent with Government laws and regulations applicable to real estate management.

§9–4.6003 Application.

(a) The Office of Project and Facilities Management is the Headquarters contact point for Departmental policies and procedures governing the acquisition, use, and disposal of the Department's real estate or interests therein. Real estate interests include purchases, leases, easements, permits and licenses.

(b) It is the Contracting Officer's responsibility to coordinate with the Office of Project and Facilities Management when contractor real estate acquisitions meet the criteria set forth in § 9–4.6001 of this subpart in order to assure that appropriate procedures are followed by the contractor.

(c) The following clause will be included in contracts or modifications where contractors acquisitions are expected to meet the criteria specified in 9–4.6001 of this subpart.

Acquisition of Real Property

(a) Notwithstanding any other provision of the contract, the prior approval of the contracting officer shall be obtained when, in performance of this contract, the contractor acquires or proposes to acquire use of real property by:

(1) Purchase, on the Government's behalf or in the contractor's own name, with title eventually vesting in the Government.

(2) Lease, and the Government assumes liability for, or will otherwise pay for the obligation under the lease as a reimbursable contract cost.

(3) Acquisition of temporary interest through easement, license or permit, and the Government funds the entire cost of the temporary interest.

(b) Justification of and execution of any real property acquisitions shall be in accordance and compliance with directions provided by the Contracting Officer.

(c) The substance of this clause, including this paragraph (c), shall be included in any subcontract occasioned by this contract under which property described in paragraph (a) of this clause shall be acquired.

§ 9–4.6004 Competition.

(a) *General.* It is incumbent upon the Contracting Officer to insure that genuine competition prevails and that adequate consideration flows to the Government whenever and however Government property is to be provided a contractor for contract performance. Willingness and ability to provide all resources necessary for contract performance shall be an important factor in evaluating competitive contractors.

(b) *Solicitation documents.* Contracting Officers shall make certain that solicitation documents:

(1) Require prospective contractors to specify additional facilities and equipment which must be acquired for contract performance, the estimated cost of individual items, and whether acquisition of such property will be financed by the prospective contractor or whether the Government will be requested to provide the required items.

(2) Explain whether it is the Government's intention to provide property, when it is known prior to solicitation that contract performance will require additional facilities or equipment.

(3) Require prospective contractors to:

(i) List items (including dollar value) of Government-owned property in their possession which they propose to use in performance of the prospective contract;

(ii) Identify the contract or other instrument under which the property is accountable; and

(iii) Present written permission to use such property in the performance of the prospective DOE contract from the Government Contracting Officer having cognizance of the property.

(4) Include a statement that the user will assume all costs related to making the property available for use (e.g., transportation, installation, rehabilitation, modification, etc.), unless the Government is to assume such costs.

(5) Include a statement which explains the consideration to be given Government property during evaluation of bids and proposals. This is to insure that all prospective bidders and offerors understand that Government property will be an important consideration in evaluating their bids and proposals.

Change 10.10

Change 10.10 amends § 9–5.5203–1, "Regulations," to provide that printing may be included in contracts for other services provided it is not practical to separate this activity from the other work and provided that the contractor acquires such printing from the Government Printing Office (GPO) or a GPO designated source. The following additional text is added to the existing text of § 9–5.5203–1:

§ 9–5.5203–1 Regulations.

* * * This general prohibition is not applicable to situations in which practicality requires that the contractor obtain the printing on DOE's behalf, provided the contractor obtains the printing from the Government Printing Office (GPO), a contract source designated for that purpose by the GPO or a Joint Committee on Printing authorized federal printing plant. Contracting Officers should obtain the concurrence of their facility printing office prior to including such work in any contract and shall provide the Contractor with specific ordering instructions.

Change 10.11

Change 10.11 amends § 9–5.5205, "Helium," at § 9–5.5205–3(a) to indicate a change of mailing address and at § 9–5.5205–3(c) to delete the phrase "as defined by Parts 601 and 602, Subchapter A, Chapter VI, Title 30, Code of Federal Regulations," and to place a period after the word "helium" to indicate the new end of the sentence resulting from the text deletion. The revised text will read:

§ 9–5.5205 Helium.

* * * * *

§ 9–5.5205–3 Methods of purchase.

(a) Purchases may be made from the Secretary of the Interior for either DOE or cost-type contractors requirements for helium by forwarding a purchase order in duplicate (Form DOE–103 or the cost-type contractor's purchase order properly identified in accordance with the Use of Government Sources of Supply instruction at § 9–5.5105–2) to the Bureau of Mines, Division of Helium Operations, 1100 S. Fillmore, Amarillo, Texas 79101.

* * * * *

(c) In all cases, except where purchase is made from the Bureau of Mines directly, the purchase orders shall contain the following statement: Helium furnished under this contract shall be Bureau of Mines helium.

Change 10.12

Change 10.12 partially removes and replaces the existing text of § 9–7.302–57, "Printing", with new coverage. The change provides that contractors may be authorized to obtain printing on DOE's behalf directly from the Government Printing Office. The revised text will read:

§ 9–7.302–57 Printing.

Insert the following clause:

Printing

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single page, or no more than 25,000 units in the aggregate of multiple pages, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches one side only, one color.

(1) The term "printing" includes the following processes: composition, plate-making, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the Contracting Officer in writing and obtain the Contracting Officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing

Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

Change 10.13

Change 10.13 amends § 9–15.205–61, "Printing costs," by adding the following new second sentence to allow the costs of printing in certain circumstances.

§ 9–15.205–61 Printing costs.

* * * But, such costs may be allowed if the Contracting Officer has authorized the contractor to obtain printing on DOE's behalf from the Government Printing Office (GPO), a contract source designated by GPO, or a Joint Committee on Printing authorized federal printing plant.

Change 10.14

Change 10.14 adds a new § 9–50.508, "Real Estate Management," to make the provisions of § 9–4.60, being added by Change 10.6, applicable to operating and on-site service contracts. Section 9–50.508 is added to Subpart 9–50.5 to read as follows:

§ 9–50.508 Real Estate Management.

§ 9–50.508–1 Scope.

The provisions of Subpart 9–4.60 for acquisition, use and disposal of real estate, or interests therein, shall be followed for operating and on-site service contracts.

Change 10.15

Change 10.15 amends § 9–50.704–49, "Printing," to define printing and give further guidance. The present text is retained as an introductory paragraph and the following is added:

§ 9–50.704–49 Printing.

* * * * *

(a) The term "printing" includes the following processes: composition, platemaking, presswork, binding, microform publishing, or the end items produced by such processes.

(b) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(c) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (c).

(Sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254))

[FR Doc. 83–19581 Filed 7–21–83; 8:45 am]
BILLING CODE 6450–01–M

federal register

Friday
July 22, 1983

Part IV

Department of the Interior

Bureau of Land Management

Minerals Management and Oil and Gas Leasing

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2530]

43 CFR Parts 3000, 3040, 3100, 3110, 3120, 3140 and 3150

Minerals Management and Oil and Gas Leasing; Revision of the Regulations Covering Oil and Gas Leasing on Federal Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Rulemaking.

SUMMARY: This final rulemaking revises the provisions of the existing regulations in Groups 300 and 3100 to reduce the regulatory burden imposed on the public, to provide access to public lands in Alaska for oil and gas exploration and development and to achieve a number of miscellaneous purposes under the authority granted the Secretary of the Interior by various statutes.

EFFECTIVE DATE: August 22, 1983

ADDRESS: Inquiries or suggestions should be sent to: Director (530), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Zabler, (202) 343–7753

or

Robert C. Bruce, (202) 343–8735

SUPPLEMENTARY INFORMATION: The proposed rulemaking revising the oil and gas leasing regulations was published in the **Federal Register** on June 30, 1982 (47 FR 28550). Comments were invited for a period of 60 days during which period a total of 64 comments were received, with 27 coming from corporations, 15 from Federal agencies, 7 from attorneys, 6 from associations, 5 from individuals, 3 from conservation groups and 1 from a State. Comments were also received at a public meeting held in Salt Lake City, Utah, on August 24, 1982. All of the comments, including those made at the public meeting have been given careful consideration during the decisionmaking process on this final rulemaking.

The comments were virtually unanimous in their support of the revisions made by the proposed rulemaking in the regulations and the effort to reduce the regulatory burden imposed on those who apply to lease the public lands for oil and gas operations. One area of general comment raised a question about the use of the title "Mineral Lands Leasing Act of 1920." This Act was not given a title by the Congress and may be properly referred to as either the Mineral Leasing Act of 1920 or the Mineral Lands Leasing Act (30 U.S.C. 181 note). In an effort to use the term that has been used most often by the Department of the Interior, the final rulemaking adopts the use of the title "Mineral Leasing Act of 1920".

Nearly all of the comments contained discussions of specific sections of the proposed rulemaking and recommended changes, some of which have been adopted by the final rulemaking. This preamble will only discuss those sections which were the subject of specific comments or that were changed and will not discuss those sections that did not receive any comments or were not changed.

Section 3000.0–5 Definitions.

The definition section of part 3000 of the proposed rulemaking received a number of comments. The definitions used throughout the proposed rulemaking, including those in section 3000.0–5, have been carefully reviewed in an effort to simplify and clarify the defined terms. The final rulemaking adopts a number of changes suggested in the comments. As an example, the final rulemaking has changed the definitions of the terms "oil" and "gas" as a result of comments, including the recommendation of one comment that the terms need not be defined in these regulations because they are defined in 30 CFR Part 221. Every effort has been made in the final rulemaking, which retains these terms, to make them compatible with the definitions in 30 CFR Part 221.

Another example of a change adopted by the final rulemaking for clarity was the shortening of the definition of the term "party in interest" and the addition of a separate definition of the term "interest." The definition of the term "proper BLM office" has been changed in the final rulemaking to conform to changes previously adopted that made the Wyoming State Office the proper office for filing of all simultaneous oil and gas lease applications. Several comments requested clarification of this term, but after careful review, none of the suggestions for clarification were adopted by the final rulemaking.

Several comments recommended the inclusion of terms in the definition section that are generic in nature and have a clearly understood meaning. It has been determined that the final rulemaking will not include commonly used and understood terms in the definition sections. The addition of these commonly understood terms only increases the regulatory burden without any corresponding benefit. One comment requested that the terms "known geologic structure" and "favorable petroleum geological province" be added to the definitions section of the final rulemaking. Because these two terms are central to the distinction between lands leased competitively and those leased noncompetitively, these terms are defined in Subpart 3100 of the final rulemaking.

Concern was expressed in the comments that the term "surface management agency" did not include those agencies other than the Bureau of Land Management that are part of the Department of the Interior. Departmental agencies other than the Bureau of Reclamation have a statutory role in the issuance of leases and are covered by specific provisions of this final rulemaking. In accordance with Departmental manuals, the Bureau of Reclamation is consulted before a lease is issued on lands under its jurisdiction.

Section 3000.4 Appeals.

Several of the comments pointed out that the proposed rulemaking contained no section covering appeal of decisions issued in connection with the oil and gas leasing program, while the existing regulations did contain such a section. The final rulemaking adds a new section 3000.4 which covers appeals. The addition of this new section required the renumbering of the sections following it in the final rulemaking.

Section 3000.6 Multiple development.

Two comments recommended that § 3000.6 of the proposed rulemaking, renumbered § 3000.7 in the final rulemaking, be deleted because it is superfluous. This section has been retained in the final rulemaking to make it clear that the principle of multiple development will be applicable to lands leased under these regulations.

Section 3045.0–1 Purpose.

Comments on this section of the proposed rulemaking that the section needed to be revised and clarified. Some comments suggested that a notice of intent or permit application be required for all geophysical exploration. Other comments questioned why exploration permits were being required for leased lands in Alaska. One comment sought clarification as to whether this section and its subpart were applicable only to Bureau of Land Management administered lands. In response to the comments, the section has been revised in the final rulemaking to clarify the purpose of this subpart. The subpart is designed to establish procedures for conducting geophysical exploration operations on public lands, which are

defined in § 3045.0–5(b) of this rulemaking as those lands administered by the Secretary of the Interior through the Bureau of Land Management. The requirements of this subpart are applicable to everyone wishing to conduct geophysical operations on the public lands, with the exception of lessees who conduct such operations on lands covered by their leases in the lower 48 States. These lessees are required, however, to meet the bonding requirements set forth in § 3045.4. Further, this subpart is not applicable to lands in the National Wildlife Refuge System. Geophysical operations on such lands will be administered by the Fish and Wildlife Service as a matter of refuge management, as is presently done by the Forest Service for such operations within National Forest System lands.

Section 3045.0–5 Definitions.

The comments on this section of the proposed rulemaking, with the exception of one which requested the addition of the term "authorized officer," suggested minor word changes for clarification. The final rulemaking has not added the term "authorized officer" since that term is defined in § 3000.0–5 which is applicable to all parts of groups 3000 and 3100, including Part 3045.

Section 3045.1 Suspension, revocation or cancellation.

This section has been amended by the final rulemaking to include notices of intent and geophysical exploration permits to clarify the kinds of permits or notices that may be revoked or suspended under this section.

Section 3045.2–2 Notice of completion of operations.

In response to comments on this section of the proposed rulemaking, the final rulemaking has been amended to allow the authorized officer 30 days to notify the operator of any additional action that might have to be taken in connection with the notice of intent rather than the 90 days set out in the proposed rulemaking.

Section 3045.3 Exploration in Alaska.

Sections 3045.3–1 through 3045.3–5 of the proposed rulemaking were the subject of a sizable number of comments which were critical of the procedures and timeframes contained in those sections. To expedite the exploration permitting process, the requirement that the application for an exploration permit be on a form approved by the Director, Bureau of Land Management, has been deleted from § 3045.3–1 by the final rulemaking. Instead, anyone wishing an exploration permit need only submit an application with the minimal information that has been added by the final rulemaking to § 3045.1–3. In addition, § 3045.3–2 has been amended by the final rulemaking to provide for prompt notificaton of the applicant of delays caused by compliance with provisions of the National Environmental Policy Act. In addition, § 3045.3–2(d) has been revised by the final rulemaking to omit all reference to an exploration plan.

Several comments were received on § 3045.3–5 of the proposed rulemaking regarding the roles of the permittee and the authorized officer in approving a modification of an exploration permit. This section has been changed by the final rulemaking to give the authorized officer the authority to approve a modification. Furthermore, all references to "exploration plan" have been changed to "exploration permit" by the final rulemaking to make this section consistent with changes made in other sections.

A number of comments on § 3045.3–6(b) of the proposed rulemaking were critical of the data submission requirements and the public availability of that data. The comments indicated that these provisions were burdensome and would discourage exploration. The final rulemaking provides that all such data will be kept confidential by the Bureau of Land Management until such time as disclosure would not adversely affect the competitive position of the permittee.

Section 3045.4 Bond requirements.

Several comments on the content and format of this section of the proposed rulemaking resulted in changes in the final rulemaking. In response to comments that suggested that this point be clarified, the first paragraph of the final rulemaking makes it clear that the bonding requirement is applicable to both leased and unleased lands. Some comments suggested that the bonding figures of $5,000, $25,000 and $50,000 do not provide adequate protection. The final rulemaking retains the $25,000 and $50,000 bond requirements intact, but establishes $5,000 as a minimum bond.

A few comments felt that the order of paragraphs (b) and (c) of the proposed rulemaking was confusing and that they should be reversed. As suggested by the comments, the final rulemaking reverses the order of these two paragraphs.

Several comments objected to the provision in section 3045.4(b), renumbered § 3045.4(c) by the final rulemaking, for an automatic termination of the liability on the 91st day after the filing of the notice of completion, as being unreasonable. The comments questioned whether 90 days was adequate to make a compliance determination given mitigating factors such as heavy snow cover in Alaska. The Department of the Interior considers 90 days adequate; therefore, the final rulemaking retains the language of the proposed rulemaking.

Section 3100.0–3 Authority.

The comments on this section of the proposed rulemaking expressed concern about the deletion of various statutory authorities that had been a part of the authority section of the existing regulations. As a result of the comments the authority section was carefully analyzed and the final rulemaking restores references to the special Acts for the lands patented to the State of California and for National Forest lands in Minnesota. Also inserted in the final rulemaking are the revisions to the authority section made by regulations promulgated by the National Park Service in their mineral leasing regulations of December 21, 1981 (46 FR 62038).

Section 3100.0–5 Definitions.

This section of the proposed rulemaking was the focus of several comments recommending changes. Among the comments was one that questioned the need for a definition section in Part 3100 since there is a definition section in Part 3000 that provides general definitions for all of group 3000 and group 3100. Even though there is a general definition section in Part 3000, there is a need for definitions that are specifically applicable to Part 3100 and this definition section, which is retained by the final rulemaking, provides that specificity. Several comments suggested the addition of commonly used terms to the definition section. As stated earlier in this preamble, commonly used terms are not included because there is no need to define terms that have a commonly understood meaning.

One comment recommended that the definition of the term "primary term" as used in the proposed rulemaking be expanded to include the provision that a lease may be extended by production or suspension of operations. This recommendation has not been adopted by the final rulemaking because this definition is very specific and does not refer to any extended term. The provisions for extension beyond the primary term are provided in other parts of the rulemaking.

Another comment on this section of the proposed rulemaking suggested the

phrase "obligation to pay rent" contained in the definition of the term "record title" be changed to read "right to pay rent." This suggestion has not been adopted by the final rulemaking because the payment of annual rental is an obligation, not a right.

As suggested by the comments, the terms "favorable petroleum geological structure" and "known geological structure" have been added to the definition section by the final rulemaking. These terms are used throughout Part 3100 and have definite meanings that need to be clarified for the public.

Section 3100.2 Drainage.

A number of comments were received on the various sections of the proposed rulemaking covering drainage. One comment suggested that the United States can only lease for compensating the Federal acreage being drained and cannot enter into some other arrangement for compensation with the owners of those adjacent lands which are the source of the drainage problem. For these reasons, the comments suggested that § 3100.2–1 be rewritten or eliminated from the final rulemaking. After careful consideration, the suggestions were rejected and the final rulemaking retains § 3100.2–1 as it appeared in the proposed rulemaking. The United States must be compensated for any drainage that is occurring on Federal lands and § 3100.2–1 provides flexibility needed to obtain that compensation.

Two comments suggested that the requirement of § 3100.2–2 of the proposed rulemaking that the lessee drill all necessary wells to protect the leased lands from drainage be modified by the final rulemaking to allow the lessee, upon a showing that a well could not be profitably operated, to be relieved of having to drill that particular well. The final rulemaking has not been amended but the wording of the section requiring the lessee to ". . . drill and produce all wells necessary to protect the leased lands . . ." implies that economic considerations will be used in determining what wells, if any, need to be drilled.

Section 3100.3 Competitive and noncompetitive leasing areas.

Several comments were received on §§ 3100.3 through 3100.3–2 of the proposed rulemaking, with most recommending that the terms "known geological structure" and "favorable petroleum geological structure", that are used extensively in these sections, be defined. As stated earlier in this preamble, these terms have been added to the definition section of the final rulemaking.

In response to several comments, § 3100.3–1 of the proposed rulemaking has been clarified by the final rulemaking as to which lands are leased competitively and which are leased noncompetitively. In response to a comment that recommended specific editorial changes to § 3100.3–2 of the proposed rulemaking, the final rulemaking makes several editorial changes that clarify the section.

One comment proposed that the final rulemaking contain a provision requiring that the designation of a known geological structure or favorable petroleum geological province be published in the **Federal Register**. Notices of defined geological structures are published in the **Federal Register**. However, undefined known geological structure determinations are not published because of the nature of the changing boundaries. A public record of all structures, whether defined or undefined, is maintained in the appropriate Bureau of Land Management office. Another comment on this same subject recommended that the rulemaking contain the procedure for reaching these determinations. This recommendation has not been adopted by the final rulemaking because it is a matter of established standard procedures.

Section 3100.4 Options.

Sections 3100.4 through 3100.4–3 of the proposed rulemaking received several comments. One comment suggested that the final rulemaking adopt the language of § 3100.5–5 of the existing regulations on options. This recommendation has not been adopted. The final rulemaking contains the clearer and more concise language of the proposed rulemaking.

The comments suggested that acreage under option not be charged to both parties to an option. The Mineral Leasing Act of 1920 places an acreage limitation on those holding interests in a lease, including options, and until an assignment of lease interest has been approved both parties have an interest in the lease and are chargeable with that interest. The final rulemaking has not adopted this suggestion.

Another comment proposed that language be added to the final rulemaking providing that acreage contained in an option on an offer or application not be chargeable to either party to the option prior to the issuance of the lease. Acreage limitations are properly addressed in § 3101.2 of the proposed rulemaking which has deleted the language of the existing regulations that makes acreage in offers or interests in offers chargeable against the acreage limitation. This proposed change has not been adopted in this section of the final rulemaking.

One comment objected to the option statements required by § 3100.4–3 of the proposed rulemaking, as duplicative of those required in § 3100.4–1. The final rulemaking adopts language which clarifies that the requirements of § 3100.4–3 are intended to update the statements filed under § 3100.4–1.

Section 3101.1 Lease terms and conditions.

A sizable number of comments were received on the lease terms and conditions sections of the proposed rulemaking, with most complaining that special stipulations are not consistent in the way they are applied. Some of the comments suggested rewording of § 3101.1–2, either to retain the wording of the existing regulations at § 3109.2–1 or to provide wording to the effect that stipulations shall not be inconsistent with the purpose for which the lands are leased, or more restrictive than the law specifically authorizes. The Bureau of Land Management is charged by law with the management of the public lands under principles of multiple use while protecting the various resources and the environment. Special stipulations vary widely as a result of variables such as geographic location and the resources that may be present. These special stipulations may be in addition to terms and conditions printed in the lease as mitigating measures for each unique leasing situation. The proposed rulemaking is more specific than the existing regulation on this subject, but the final rulemaking makes changes which provide that stipulations shall become part of leases and leases shall be issued only if the stipulations do not absolutely bar exploration of the resource and the extraction of oil or gas is technically feasible, unless otherwise acceptable to the offeror. This change is designed to preclude the issuance of a lease with stipulations so restrictive as to render the lease useless, unless the offeror does not object to the lease.

One comment objected to the provision of § 3101.1–4 of the proposed rulemaking that made leases subject to future changes in regulations and suggested that the phrase "or later enacted" be deleted. Sections 3101.1–3, Statutes, and § 3101.1–4, Regulations, of the proposed rulemaking have been deleted by the final rulemaking because they are unnecessary. The lease form sets out the laws and regulations to which a lease is subject and it need not be repeated in the regulations.

Section 3101.2 Acreage limitations.

The sections of the proposed rulemaking concerning acreage limitation received several comments, with § 3101.2–4 of the proposed rulemaking being the focus of a number of them. One comment proposed that section 3101.2–4 be expanded in the final rulemaking to include situations where excess acreage is created by a corporate merger or purchase of controlling interest in a corporation. This change has been adopted by the final rulemaking along with a recommendation that the time period for divestiture of such holdings be extended to 180 days, with a provision allowing petition to the authorized officer if further time is required.

The proposed rulemaking was silent on which leases or interests are to be canceled or forfeited to eliminate excess acreage. A comment suggested that the choice should not be the lessee's, while two other comments suggested that the last lease or interest acquired should be the first to be canceled. The final rulemaking contains language requiring that the excess acreage be surrendered in the inverse order of its acquisition.

Section 3101.3 Leases within unit areas.

Two comments were received on the requirement for submission of joinder evidence contained in § 3101.3–1 of the proposed rulemaking, with one comment pointing out that the Minerals Management Service was responsible for receiving such evidence and that this was not clear in the proposed rulemaking. As a result of Secretarial Order 3087, as discussed later in this preamble, the Bureau of Land Management is the proper receiving agency. The final rulemaking adopts language that clarifies this point. The other comment on § 3101.3–1 recommended the deletion of this section and its requirements. This section is retained in the final rulemaking.

Section 3101.4 Lands covered by application to close lands to leasing.

Two comments received on this section of the proposed rulemaking expressed confusion about the use of the word "termination" when referring to the end of the segregative effect of the application to close lands to mineral leasing. For clarity, the final rulemaking substitutes the word "final" for the word "termination."

Section 3101.5 National Wildlife Refuge System lands.

Several comments on this section of the proposed rulemaking expressed concern that other agencies and bureaus within the Department of the Interior were not provided for in the same manner as the Fish and Wildlife Service. With the exception of special provisions for leasing for lands under the jurisdiction of the National Park Service which are covered by special statutes and are included in § 3109.2 of the rulemaking, the Fish and Wildlife Service is the only agency within the Department that has special restrictions on leasing of its lands not covered by general instructions in Departmental manuals. The manuals, which are available to the public, provide instructions on the procedure to be followed in referring the application to the appropriate agency once a lease application has been filed for those lands. It is not necessary to repeat this internal procedure in this rulemaking.

Additional comments on this section of the proposed rulemaking objected to the closing of National Wildlife Refuge System lands to leasing and expressed the view that the Secretary of the Interior lacked the authority to close these lands to leasing. One comment suggested that the final rulemaking be amended to allowing leasing of these lands with a no surface occupancy stipulation. Another comment agreed with the closing of National Wildlife Refuge System lands to leasing, while still another comment suggested that regulations of the Bureau of Land Management should not apply to National Wildlife Refuge System lands, but that leasing of those lands should be covered by regulations of the Fish and Wildlife Service.

The Department of the Interior is continuing to examine oil and gas leasing on National Wildlife Refuge System lands. Until a thorough review of the Department's leasing policy is completed, the Department will make no substantive change in existing regulations covering such lands. In the future, should the Department make any changes in its policy on National Wildlife Refuge System lands, the public will be afforded an opportunity to comment on the proposed changes. The final rulemaking adopts the appropriate language of the existing regulations with respect to National wildlife refuge lands and coordination lands. The language regulating leasing on game ranges has been omitted, because these areas have been redesignated as refuges by statute. A separate subsection has been added to clearly set out the role of the Fish and Wildlife Service in stipulating any leases issued on National Wildlife Refuge System lands that are open to leasing.

Section 3101.7 Federal Lands Administered by an agency outside of the Department of the Interior.

Many comments suggested that the surface management agency be required to provide justification and rational for no-leasing decisions and special stipulations. Reasons for refusal to consent to lease acquired lands cannot be required of the surface management agency by the Department of the Interior. The Mineral Leasing Act for Acquired Lands does not provide for such a requirement. The surface management agency is an adverse party to any decision rendered by the Department to reject an offer because of a refusal to consent to lease, and an appeal to the surface management agency is neither required nor necessary to exhaust administrative remedies within the Department.

Section 3101.8 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

One comment proposed that section 3101.8 of the proposed rulemaking be expanded to require justification from a State or charitable organization when a restrictive stipulation is proposed. The final rulemaking has been amended to adopt this proposal.

Section 3102.2 Aliens.

Several comments were received on section 3102.2 of the proposed rulemaking, with one of the comments raising the point that the proposed rulemaking provided no relief when only one share of stock is held by an alien from a non-reciprocal country, while another comment suggested flexibility in applying the regulations to specific situations where alien control exists. The existing interpretation of the Mineral Leasing Act of 1920, which is the basis of the limitation on alien ownership, finds no provisions for relief or flexibility on this question and the final rulemaking adopts the proposed rulemaking without change.

Another comment suggested that the maintenance of non-reciprocal country lists should not be incorporated into the regulations because the **Federal Register** notice of June 25, 1982 (47 FR 27622), advised that the maintenance of the list was an administrative procedure. Even though the publication of the notice is an administrative procedure, the Secretary of the Interior has the discretionary authority to make it a regulatory

requirement and has decided to do so. Therefore, the final rulemaking retains the language of the proposed rulemaking.

Section 3102.4 Signatures.

Several comments on § 3102.4 of the proposed rulemaking suggested that there be a specific requirement that the signatures be dated. The final rulemaking adopts this suggestion.

Section 3102.5 Evidence.

The comments on this section of the proposed rulemaking were directed primarily to the issue of not requiring substantive evidence of qualification prior to lease issuance on the basis that this will invite fraud. Two comments raised the point that there was no provision for the filing of a power-of-attorney. The changes in the requirements for filing of qualifications documents at the time an offer is filed were adopted by interim final rulemaking on February 26, 1982 (47 FR 8544), and the paperwork reduction and development of an audit procedure were fully discussed. This final rulemaking continues the effort to reduce the regulatory burden imposed on the public, while imposing a spot check audit system that will assure compliance with the requirements of the law that were put forward in the interim final rulemaking.

Section 3103.1–1 Form of remittance.

Several comments on this section of the proposed rulemaking noted that it failed to provide for guaranteed remittance for competitive bonus bid deposits. The final rulemaking provides in Part 3120 that such remittances shall be submitted in the form specified in the sale notice.

Another change made by the final rulemaking makes it clear that the provision for returned unpaid remittances will apply only to remittances for filing fees under Subpart 3112. This provision will prevent abuse of the simultaneous leasing system by applicants stopping payment on their checks after a successful selectee is determined. The provision does not apply to remittances for annual rental returned unpaid. In those instances, the lease will terminate by operation of law, or in the case of the failure to pay the advance first year's rental, the offer will be rejected.

Section 3103.2 Rentals.

The existing regulations treat a deficiency of 10 percent of the advance rental as a curable defect, while the proposed rulemaking requires the deficiency to be cured prior to the issuance of the lease, subject to rejection of the offer. In response to comments on this subject, the final rulameking returns to the procedure in the existing regulations where a minimal deficiency is a curable defect; the lease with such a deficiency will be issued and the remainder to the rental will be required within 30 days by a notice. If the required rental is not submitted within the time allowed, the lease will be cancelled and the first year's rental, to the extent paid, will not be refunded.

Five comments objected to a gross rental payment on fractional interest leases rather than a proportional rental based on the percentage of leased interest. This has been the policy of the Department of the Interior since September 30, 1976, when rental for a fractional interest was made payable at the same rate as a full undivided interest. At that time, the Department justified the change in policy by holding that "the relationship of a fractional interest to the total interest is no more severe than the degree of chance taken in holding a lease to the full mineral interest where the existence of a mineral deposit is unknown" (41 FR 43149). The Department went on to point out that the lessee pays a royalty upon discovery at a rate proportionate to the leased interest. This rationale is still valid today and the policy is retained in this section of the final rulemaking.

Two comments opposed the provision in the proposed rulemaking requiring a full year's rental even if less than a full year remains in the lease term, while one comment supported the requirement. Each year a number of leases that are in extended terms fail to qualify for an additional extension under subpart 3107 because of failure to pay rental for the period beyond the expiration of the initial extended term. In the past, considerable time and expense were expended in efforts to reinstate these leases. This provision, which has been adopted by the final rulemaking, is meant to protect leases from inadvertent termination in such cases. Finally, in those instances where leases are inadvertently cancelled, the Congress has authorized the Secretary of the Interior to reinstate the leases.

One comment, which has been adopted by the final rulemaking, recommended the addition of a new paragraph to § 3103.2–2 to provide for rental amounts on leases not specifically covered by the section. To be consistent in rental amounts, a lease issued in any way other than those specifically set out in the section will be subject to a rental rate of $1 per acre or fraction thereof per year under the newly added paragraph in the final rulemaking.

The final rulemaking also adopts two miscellaneous changes in § 3103.2–2. The first change sets out the Bureau of Land Management's policy to return rental payments made to an improper office and not forward them to the proper office. The second change adds language to bring the final rulemaking into conformity with the Mineral Leasing Act with regard to leases committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas.

Section 3103.3–1 Royalty on production.

Several comments were received on the royalty provisions of the proposed rulemaking, many of which pointed out that a portion of the royalty schedule was omitted from § 3103.3–1 of the proposed rulemaking. This inadvertent error was corrected by the publication of a correction on July 14, 1982 (47 FR 30499). The comments recommended various changes in the royalty rate, all of which have been rejected, with the final rulemaking adopting the language of the proposed rulemaking with no substantive change.

Finally, a new paragraph has been added to this section by the final rulemaking to make it clear that the payment of royalty on the helium component of gas does not give the right to extract the helium.

Section 3103.3–2 Minimum royalties.

One comment objected to not prorating the minimum royalty not being prorated from any lands in which the United States owns an undivided fractional interest. The final rulemaking adopts the provisions of the proposed rulemaking. There are the provisions of § 3130.2–2 of the existing regulations adopted on September 30, 1976, in conjunction with the change in rental policy that was discussed earlier in this preamble. The rationale given at that time is still applicable.

Section 3103.3–3 Limitation on overriding royalties.

A total of eleven comments were received on this section of the proposed rulemaking with all objecting to overriding royalties and production payments that aggregate in excess of 17½ percent being declared null and void by the Secretary of the Interior when the excess constitutes a burden on lease operations. After careful study of the comments and the provisions of this section, the final rulemaking modifies the section to provide that overriding royalties and production payments may

be suspended, rather than declared null and void, by the Secretary.

One comment suggested that the limitation on overriding royalties or production payments be tied to some level of production, while another comment suggested retaining the provision of the existing regulations for suspension of excess overriding royalties or payments out of production when the average production of oil per well per day averaged 15 barrels or less on a monthly basis. The final rulemaking does not adopt the language of the existing regulations because it is inappropriate to tie the suspension of overriding royalties or production payments to a specific production level and take away the Secretary of the Interior's flexibility to consider changing economic and operation conditions in making a decision on suspension.

Section 3103.4–2 Suspension of operations and production.

A comment on § 3103.4–2(c) of the proposed rulemaking recommended that the provision for crediting prepayments contained in § 3103.3–8(c) of the existing regulations be adopted by the final rulemaking. This suggestion has been adopted by the final rulemaking and such a provision added to § 3103.4–2(c).

Subpart 3104—Bonds.

A large number of comments were received on this subpart of the proposed rulemaking. The comments can be divided into two categories. One group of comments suggested that the provision allowing a designated operator to post a bond was not clear and another group suggested that the amount of the bonds was not adequate. In response to the first group of comments, the final rulemaking changes the proposed rulemaking to make it clear that the operator on the ground, whether the approved holder of operating rights or a designated operator, will be bonded. In response to the second set of comments, the bond amounts set in the proposed rulemaking and adopted by the final rulemaking are the minimum amount. The authorized officer is given the authority, after consultation with the appropriate surface managing agency, to increase the amount of bond when conditions warrant.

Two miscellaneous comments were also received on the bonding provisions of the proposed rulemaking. One requested that the regulations clarify what is covered by a bond, whether reclamation or payment of royalty are included. The approved bond forms set out that the bonds are to ensure compliance with all the terms and conditions of the lease which includes all potential liabilities and no further clarification is needed in the regulations. Another comment recommended that the language of §3104.1(c) of the proposed rulemaking be amended to provide that personal bonds be accompanied by a cashier's check or certified check rather than by a guaranteed remittance. This recommended change has been adopted by the final rulemaking.

Subpart 3105—Cooperative Conservation Provisions.

A comment on subpart 3105 of the proposed rulemaking suggested that the subpart should provide that acreage within approved cooperative or unit agreements will not be chargeable against the maximum acreage allowed by law. Such acreage is excluded from chargeable acreage by § 3101.2–3 of the final rulemaking and that language need not be repeated in this subpart.

Another comment on this subpart proposed that surface managing agencies be required to provide input to unit agreements. Unit agreements are approved by the Bureau of Land Management under 30 CFR Part 226 and the provision for coordination between the Bureau of Land Management and the appropriate surface managing agency is not properly a part of this rulemaking and no change has been made by the final rulemaking. Section 3105.1 of the final rulemaking refers to 30 CFR Part 226 for the contents and procedures for obtaining approval of cooperative or unit agreements.

Several comments were received on the provisions covering retroactive approval and dating of communitization agreements. While some of the comments were generally supportive of the provisions, others expressed concern that retroactive approval and dating may lead to problems with expiring leases and such lands being made available for lease under the simultaneous leasing program. In response to these comments, the final rulemaking provides that agreement filed with the authorized officer after the subject Federal lease was due to expire may be approved only if it is filed before notice to the public that the subject lands are available for leasing.

Several comments questioned why the proposed rulemaking required the filing of operating, drilling or development contracts with the Bureau of Land Management when they should be filed with the Minerals Management Service. As a result of Secretarial Order No. 3087, the Bureau of Land Management is the proper receiving agency for these contracts.

Subpart 3106—Assignments and Other Transfers.

Subpart 3106 of the proposed rulemaking was the subject of numerous comments. Four of the comments recommended deletion by the final rulemaking of the provision that assignments of separate zones or deposits or parts of legal subdivisions will not be approved unless it is determined to be in the best interest of the United States. The language complained of is contained in the existing regulations and is an exercise of the authority granted the Secretary of the Interior by the Mineral Leasing Act of 1920 (30 U.S.C. 187a). The provision is retained by the final rulemaking in order to allow the Secretary to exercise this discretionary authority in the best interest of the United States. Generally, it is not in the best interest of the United States to approve assignments of record title to separate zones or deposits, while horizontal assignments of operating interests may be approved.

Three comments recommended that the requirement contained in existing regulations that assignments be filed within 90 days of execution be retained in the final rulemaking. It was pointed out that it is imperative that the official case record be current and complete for use by the Department of the Interior and the public, and that assignments of interest be promptly filed for approval by the Department. In recognition of this fact, the final rulemaking has been modified to incorporate this requirement.

Four comments proposed that assignments of leases or interests in leases be allowed prior to lease issuance. One comment suggested that the prohibition on lease assignment prior to issuance be made applicable only to leases issued under the simultaneous program. In an attempt to make the regulations simpler, consistent and more concise, the requirements for assignments of over-the-counter and simultaneous leases which are, for the most part, similar, have been combined in this subpart of both the proposed and final rulemakings. The final rulemaking has been changed to allow the execution and filing of assignments of an offer to lease or interest in a potential lease prior to lease issuance, but such assignments will not be approved prior to lease issuance to avoid undue burden on the Bureau of Land Management. In addition, the final rulemaking provides that no agreement or option to assign a simultaneous lease interest may be made or given prior to the lease issuance date or 60 days after the date

of selection, whichever occurs first, as a consumer protection measure allowing the offeror a period of time before lease issuance to be free of pressures to assign the lease. The date of selection begins with the posting of the official results of the random selection in the individual State offices.

Seven comments requested deletion of the requirement that the assignment of operating rights be filed on approved forms, or that the final rulemaking modify the proposed rulemaking to allow additional items of information on the assignment form. The assignment form used by the Bureau of Land Management contains all the information that the Bureau requires to approve an assignment and maintain a current record of lease interest for its files. Operating rights assignment forms may be accompanied by supplemental documents such as operating agreements, but the requirement for completion of the approved form is adopted by the final rulemaking and will make the approval process faster and easier.

One comment suggested that the filing fee for assignments of overriding royalty or payments out of production remain at $10 rather than increased to $25. All filing fees, except the noncompetitive lease application filing fee, have been set at $25 to establish consistency in such fees and to meet the costs incurred by the Bureau of Land Management in processing the paperwork. The final rulemaking retains the $25 fee but has been modified to make it clear that a separate filing fee of $25 is required for each lease involved in an assignment.

Section 3106.4–1 Record title and operating rights.

This section has been modified by the final rulemaking to clarify the point that while a separate instrument must be filed for each lease being assigned, one request for approval can cover several assignments to the same assignee(s) which have been submitted at the same time by a qualified applicant(s).

Section 3106.4–2 Royalty interest and production payments.

Several comments expressed confusion about § 3106.4–2 of the proposed rulemaking and requested that it be clarified. In response to these requests, the final rulemaking adds language to this section that makes it clear that the section applies to overriding royalty interests and payments out of production and that an assignment must be filed for each affected lease but does not require approval.

Section 3106.7–2 Continuing responsibility.

One comment on this section of the proposed rulemaking suggested that the section state that lease offers are not used in acreage computations, while a second comment recommended that an assignee not be charged until an assignment is approved. Acreage limitations and chargeability are covered under section 3101.2 of this rulemaking and no change has been made in this section by the final rulemaking.

Section 3106.7–3 Lease account status.

Several comments on § 3106.7–3 of the proposed rulemaking recommended deletion of the continued obligation provision because it is confusing and unworkable. To simplify the rulemaking, the reference to continued obligation has been removed by the final rulemaking, thus preventing approval of an assignment of an interest in a producing lease unless the lease account is in good standing.

Section 3106.7–5 Effect of assignment.

Two comments proposed that this section of the proposed rulemaking should be changed to provide that a lease will be segregated where an undivided record title interest to a portion of the total leased acreage is assigned. It is not in the best interest of the public or the Department of the Interior to segregate lands contained in record title assignments of an undivided interest in a portion of the leased areas into separate leases. All interest, whether full or divided, should be, to the extent possible, maintained in a given parcel of land within the same lease and case record. The final rulemaking adopts the language of the proposed rulemaking.

Section 3106.8–1 Heirs and devisees.

In response to concerns expressed in comments on this section, the final rulemaking adds a paragraph to the section that gives anyone who acquires an interest otherwise forbidden by the regulation in this group, by descent, will, judgment or decree two years from the date of acquisition, to dispose of it, as authorized by 30 U.S.C. 184(g).

Subpart 3107—Continuation, Extension or Renewal

Four comments were received on the provisions of the proposed rulemaking covering the period of extension for a lease on which drilling operations were commenced prior to the end of the lease's primary term. Two of the comments suggested that the continuation run for so long as drilling operations are diligently pursued for wells 12,000 feet or deeper. The other two comments proposed that the expiration date for the lease be extended to 90 days after drilling operations had ceased. These suggested changes have not been adopted by the final rulemaking because the Mineral Leasing Act provides for one two-year extension of leases in such cases (30 U.S.C. 226(e)).

A comment suggested that the last sentence of section 3107.1 of the proposed rulemaking is too general and should be clarified. The language in the last sentence sets out a standard for actual drilling operations to be used in determining if the lease term should be extended. It is the same language that has been successfully used under the existing regulations and is sufficiently general to allow for varied geographic, geological and other factors. Therefore, the final rulemaking adopts the language of the proposed rulemaking.

A comment suggested that § 3107.2–3 of the proposed rulemaking is inconsistent with the Mineral Leasing Act (30 U.S.C. 226(f)). After reviewing the section in conjunction with a study of 30 U.S.C. 226(f), it was concluded that the section conforms to the Act and the final rulemaking adopts the language of the proposed rulemaking. Another comment on this same section recommended that the 60-day period be made flexible. The 60-day period set forth in the proposed rulemaking and adopted by the final rulemaking is statutorily set by the Mineral Leasing Act (30 U.S.C. 226(f)).

A comment on the period of extension for leases committed to a cooperative or unit plan recommended that a lease be extended for so long as drilling operations are diligently pursued and the lease not expire until 90 days after drilling operations have ceased. The extension periods for drilling operations are statutorily set and the recommended change cannot be adopted by the final rulemaking.

One comment suggested that § 3107.3–2 of the proposed rulemaking is inconsistent with the applicable provisions of the Mineral Leasing Act (30 U.S.C. 226(j)). A study of the statutory provisions shows that the provision is consistent with the law and the final rulemaking makes no change in the section.

Two miscellaneous changes have been made by the final rulemaking to subpart 3107. First, the provisions for fixing the duration of a reinstated lease found at section 3108 of the proposed rulemaking have been moved to section

3107.6 of the final rulemaking. A second change is that the provisions for fair and reasonable adjustments of overriding royalties and payments out of production for renewal leases, found in the existing regulations at § 3107.8–3(b), were inadvertently omitted from the proposed rulemaking and have been added as § 3107.8–3(b) by the final rulemaking.

Subpart 3108—Relinquishments, Termination, Cancellation

This subpart of the proposed rulemaking was the subject of only a small number of comments. The subpart does, however, contain several modifications and changes from the existing regulations. The nominal rental deficiency has been increased by the proposed and final rulemakings in consideration of larger lease acreages. In addition, § 3108.3(b) has been modified by the final rulemaking in response to a comment that leases improperly issued shall be subject to cancellation rather than cancelled, as required by the language of the proposed rulemaking. This modification reflects the Department of the Interior's existing practice in considering specific situations.

One comment was received that supported the provisions in the proposed rulemaking that a remittance postmarked on or before the lease anniversary date and received no later than 20 days after the anniversary date meets the requirement of a showing of reasonable diligence and will allow the lease to be continued. The final rulemaking clarifies the provision by making clear that the controlling postmark must be by the U.S. Postal Service, common carrier or its equivalent, and not a postal meter. In addition, the final rulemaking makes a modification in this section that carries forward the goal of reducing the regulatory impact imposed on the public by providing that a remittance that meets the provisions of the section shall be considered as timely paid. Under this change, the lease does not terminate and a Notice of Termination will not be sent by the Bureau of Land Management State Office having jurisdiction of the lands covered by the lease and a petition for reinstatement will not be required.

Subpart 3109—Leasing Under Special Acts

Several comments were received on § 3109.1 of the proposed rulemaking. All of the comments expressed concern that the section as written could cause confusion in its application. In response to these concerns, the final rulemaking completely rewrites the section in an effort to clarify it.

A few comments questioned the authority of the Department of the Interior to limit the application of the Act of May 21, 1930, as set forth in the proposed rulemaking. Since the publication of the proposed rulemaking, the Interior Board of Land Appeals has reaffirmed that the Act of May 21, 1930, is the exclusive leasing authority for oil and gas underlying a right-of-way issued pursuant to the general railroad right-of-way statute, the Act of March 3, 1875. *Champlin Petroleum Co.*, 68 IBLA 142 (1982). The Department has reviewed past decisions and opinions related to right-of-way leasing statutes and found that it has been applied to the 1875 law, to pre-1875 railroad grants and to rights-of-way issued pursuant to the Act of March 3, 1891. No decision or opinion has clearly expanded the right-of-way leasing Act to other types of easements. The right-of-way statutes described above were all construed by the Supreme Court as granting base, or limited, fee title in the right-of-way holder, thus causing the Department to seek special oil and gas leasing authority. No other right-of-way statute has been construed and the need for special leasing authority never existed for any other type of right-of-way. The Department has therefore written the final rulemaking to limit leasing under the Act of May 21, 1930, to rights-of-way which, in 1930, were considered to be a base, or limited, fee.

One comment questioned the imposition of a $25 filing fee for the filing of a right-of-way lease application. A goal of this rulemaking is to establish consistint filing fees and rental amounts based on processing costs and rental value determinations. Since the filing fee for over-the-counter and simultaneous lease applications has been raised to $75, the final rulemaking raises the filing fee for rights-of-way lease applications to $75. Seven comments were received which recommended that the royalty rate for compensatory royalty agreements or leases be set at a rate not less than 12½ percent. This recommendation has been adopted by the final rulemaking.

The regulations covering leasing within particular areas of the National Park System promulgated as a final rulemaking by the National Park Service on December 21, 1981 (46 FR 62038), have been incorporated in this final rulemaking as § 3109.2, with editorial changes.

Subpart 3110—Noncompetitive Leases, General

One comment suggested that § 3110.1–2 of the proposed rulemaking be rewritten to provide that noncompetitive leases shall be considered effective when signed and delivered by the authorized officer. This suggestion has not been adopted by the final rulemaking.

Section 3110.1–3 of the proposed rulemaking was the focus of several comments, with the suggestion that the term "available lands" be defined. This suggestion has not been adopted because the meaning of the term is self-evident and there is no need to define it. Another comment on this section suggested the elimination of the requirement that contiguous available lands be applied for when the offer is for less than 640 acres. The intent of this provision, which is also contained in the existing regulations, is to reduce the administrative burden and promote the proper development of the oil and gas resources of the public lands by requiring leases to be formed in reasonably large blocks. The provision has been adopted by the final rulemaking.

A total of seven comments recommended that § 3110.1–3(a) be rewritten to apply the 640 acre minimum requirement only to public domain lands. This recommendation has been adopted by the final rulemaking and the provision rewritten.

The proposed rulemaking contained a provision in § 3111.1–1(f)(3) for curing offers which nominally exceed the 10,240 acre limitation. The provision has been modified by the final rulemaking to clarify its intent and use, and has been moved to § 3110.1–3(c). If an offer should exceed the 10,240 acre limitation by not more than 160 acres, 30 days will be granted for withdrawal of the excess acreage without loss of priority.

If the offeror fails to withdraw the excess acreage, the offer will be rejected, with a loss of priority.

Two comments were received on § 3110.2 of the proposed rulemaking, with one suggesting reconsideration of the last sentence of the section which provides that an application under Subpart 3112 may not be withdrawn. The other comment requested that the section be clarified with regard to the withdrawal provisions. The section has been revised by the final rulemaking.

Language of the existing regulations has been restored to clarify when an offer may be withdrawn and the requirements pertaining to partial withdrawals. The Department of the

Interior gave careful consideration to the question of withdrawal of offers made under Subpart 3112. A withdrawal of an application made under Subpart 3112 would disrupt the automated selection process now in use. In addition, the administrative cost and burden incurred by the processing of an offer and withdrawal under Subpart 3112 and by reposting those lands for leasing if a lease is not issued are sufficiently great to justify requiring that such offers not be casually made. A selectee may refuse the lease by not signing it and not submitting the first year's rental. The final rulemaking continues the provision that prohibits the withdrawal of offers made under Subpart 3112.

One comment on § 3110.3(a) of the proposed rulemaking recommended that a timeframe be established during which a decision to lease or not lease is made and that any action on an offer as a result of a determination of the existence of a known geological structure or favorable petroleum geological province in Alaska would have to occur during this timeframe. This recommended provision would avoid penalizing offerors for administrative delay in lease issuance. Regardless of the length of time needed to process a noncompetitive offer, the Department of the Interior must, by law, use competitive bidding procedures to issue a lease on lands within a known geological structure or a favorable petroleum geological province. Through streamlining of administrative procedures and providing regulatory relief, the Department has significantly reduced the number of pending offers and the time elapsed prior to lease issuance. For these reasons, the final rulemaking has not adopted the recommendation.

Subpart 3111—Over-the-Counter Offers

A new combined offer to lease and lease form is being developed which will be used for all onshore oil and gas leasing, except for leasing in the National Petroleum Reserve—Alaska. For this reason, the final rulemaking deletes all reference to the current forms from § 3111.1–1(a). As suggested by several comments, § 3111.1–1(a) of the proposed rulemaking has been further amended by the final rulemaking to clarify the point that one original and four copies of each offer are required. The original offer must be manually signed in ink and dated by the offeror or offeror's agent.

One comment requested that § 3111.1–1(c) of the proposed rulemaking be amended to allow offers to include both public domain and acquired lands. The distribution of mineral revenues for each of these types of lands is mandated by law. In most instances, the distribution of revenues collected from public domain lands is different from that for acquired lands. Thus, providing for both public domain and acquired lands on the same lease would create administrative problems and increase the possibility for errors in revenue distribution. For this reason, the final rulemaking has not adopted the suggestion.

Several comments suggested that § 3111.1–1(f) of the proposed rulemaking which pertains to curable defects, be separated from this section and placed elsewhere in the regulations. This suggestion has not been adopted by the final rulemaking. Cures to defects relating to acreage and rentals are properly addressed in the applicable sections of Part 3100; only those defects in the form of an over-the-counter offer are adressed in § 3111.1–1(f). The provision of the proposed rulemaking that a form not correctly reproduced be curable conflicted with the requirements of § 3111.1–1(a) relating to reproduction of the form. The final rulemaking does not adopt the language allowing that improper reproduction may be cured.

The final rulemaking has removed the last sentence of § 3111.1–1(g) of the proposed rulemaking because it implied that the offeror's concurrence is needed for all lease stipulations, when actually certain standard stipulations, many of which cross agency jurisdiction, have been developed which will not require separate concurrence by the offeror. Prospective lessees will continue to be required to concur in any unique or special stipulations.

Section 3111.2–1 of the proposed rulemaking has been changed by the final rulemaking by amending paragraph (c) and deleting paragraph (c)(2). This change eliminates the provisions relating to lease size which were a repetition of the provisions of § 3110.1–3.

In response to several comments, § 3111.2–2(a) of the proposed rulemaking has been expanded by the final rulemaking to incorporate the provisions of § 3101.2–3(a) of the existing regulations which require lands which cannot be conformed to the official survey to be described by metes and bounds.

At the suggestion of a comment, § 3111.3–1 of the proposed rulemaking has been changed by the final rulemaking to protect financial interests of other parties in interest in present operating rights by allowing such other parties to apply for and obtain future interest leases.

The provisions of § 3111.3–2 of the proposed rulemaking have been expanded by the final rulemaking to specifically require an offeror to submit certain evidence as to its present mineral ownership and, if the offeror is another party-in-interest, a statement of such interest and a showing as to all other interests held in the present operating rights.

Subpart 3112—Simultaneous Filing

Subpart 3112 has been rearranged by the final rulemaking to facilitate the reading and understanding of the simultaneous leasing provisions.

The definition of the term "person or entity providing assistance to the participants in the Federal simultaneous oil and gas leasing program" contained in § 3112.0–5 of the final rulemaking is intended to cover not only those entities that perform services commonly known as "filing services" but also those that furnish advice or counseling that is directly related to the filing of simultaneous oil and gas lease applications. Agreements with these types of entities must be identified in the application.

Four comments requested that a time limit be set under § 3112.1–2(a) of the proposed rulemaking, renumbered § 3112.1–1(a) by the final rulemaking, for the posting of unleased lands. Although this request has not been adopted by the final rulemaking, the Bureau of Land Management will make every effort to post such lands within a reasonable time after a lease has been cancelled, terminated, relinquished or has expired. This section has been amended by the final rulemaking by the addition of language that makes it clear that a completed application is one that follows the instructions set out on the application, as well as the requirements of 43 CFR Subpart 3112.

In response to several comments, § 3112.2–1 of the proposed rulemaking has been amended by the final rulemaking to require that separate, completed, signed and dated applications for lands posted in each State office which posts a list of available parcels shall be filed in the Bureau of Land Management's Wyoming State Office. Other clarifying changes made by the final rulemaking to this section include: the requirement that all lease applications be filed on *the* form approved by the Director, Bureau of Land Management; that the name of the applicant be included along with the names of all parties in interest to the lease application; that the application must be signed and dated at the time of signing and that if it is signed by anyone

other than the applicant, the relationship of the signatory to the applicant must be shown; the requirement that separate, properly completed, dated and signed lease applications must be filed, within the designated filing period, in the Wyoming State Office; and other reasons which will cause an application to be deemed unacceptable.

One comment suggested reducing the filing fee to $50 from the presently required $75. The $75 filing fee is needed to ensure the integrity of the leasing system, to decrease casual speculation and to encourage prompt acquisition of leases on Federal lands by those wanting to develop those lands.

Three comments proposed retention of the provision for random selection (drawing) of 3 applications for priority. This proposal has not been adopted by the final rulemaking because experience has shown that the drawing of three applications is likely to cause protests against the first selectees by the second and third selectees, protests which are often found to be without merit. This protest process has drastically slowed the lease issuance process.

The final rulemaking provides in § 3112.1–4(a), renumbered § 3112.4–2, that a reselection from remaining applicants for a parcel will take place if the selected applicant is unacceptable or subject to rejection as set out in § 3112.3. As a matter of equity, this provision will prevent other applicants from being penalized in those instances where the selected application is unacceptable by providing for a reselection rather than a reoffering of a parcel. One comment requested that all original applications be included in any redrawing that is held because an application was omitted from the original drawing selection process. A reselection among all of the original applicants would be grossly unfair to the original selectee. This provision was developed, and is retained by the final rulemaking, to protect the interest of both the original selectee and the applicant(s) whose application was omitted from the original selection process.

Several comments objected to the provision in § 3112.4–1, renumbered § 3112.6 in the final rulemaking, of the proposed rulemaking allowing the addition to the lease of stipulations later determined to be necessary. Only in rare instances will it be necessary to add stipulations that were not included in the parcel list, but in those instances where it is necessary to add such stipulations to protect the public lands and their resources, this authority must be retained. Therefore, the final rulemaking retains the language of the proposed rulemaking.

The provisions of § 3112.4–1 of the proposed rulemaking, which has been renumbered § 3112.6–1 by the final rulemaking, have been expanded by the final rulemaking to specifically provide that the first year's rental may be paid only by the applicant or his/her attorney-in-fact. The conditions of the power-of-attorney under which such attorney-in-fact may act for the applicant have been broadened to require that the applicant waive any and all defenses which may be available to contest, negate or disaffirm the actions of the attorney-in-fact under the power-of-attorney. Two comments on this section recommended elimination of the requirement for the filing of a power-of-attorney with each offer. In order to lessen the burden imposed by the regulations, the final rulemaking amends § 3112.4–1(b)(3), which it renumbers § 3112.6–1(b)(3), to allow references to previously filed powers-of-attorney, together with a statement that it is valid.

The title of § 3112.5 of the proposed rulemaking, which has been renumbered § 3112.3 by the final rulemaking, has been changed to read "Unacceptable and rejected filings," in order to emphasize the point that any application that fails to meet the filing requirements of §§ 3112.2–1 through 3112.2–4 is subject to rejection. The amendment identifies those instances when the Bureau of Land Management finds a filing unacceptable and retains a $75 processing fee and returns the balance of the filing fees, if any, along with the application form to the remitter. Another change in the final rulemaking provides that the application form and filing fees will be returned to the remitter when the Bureau removes a parcel from the parcel lists. Finally, this section of the final rulemaking provides that those applications which are accompanied by no fee or by an unacceptable remittance will not be returned. The circumstances under which an application will be found unacceptable are set forth in the section. The final rulemaking also provides that an applicant who appeals the return of an application, must return the application, together with the filing fee, which shall be retained, regardless of the outcome of the appeal, and a notice of appeal.

In addition, this section of the final rulemaking makes it clear that an appeal filed as a result of the return of an unacceptable filing will not delay the drawing of a successful application or the issuance of a lease. The reasons for returning an application under § 3112.3 of the final rulemaking have been addressed by the Board of Land Appeals of the Office of Hearings and Appeals of the Department of the Interior numerous times and are recognized as fatal technical defects in a filing. The intent of this provision of the final rulemaking is to prevent a delay in lease issuance as a result of protests and appeals that are without merit.

The final rulemaking makes a change that clarifies §§ 3112.6 through 3112.6–3 of the proposed rulemaking, which have been renumbered §§ 3112.5 through 3112.5–3. The sections have been expanded to include language which specifically requires the rejection of all or part of an offer under Subpart 3112 for any lands that are determined to be within a known geological structure of a producing oil or gas field prior to issuance of the lease to be rejected and removed from the offer. In addition, language in these sections that is inconsistent with changes made by the new automated simultaneous oil and gas lease application form have been deleted.

Seven comments requested that § 3112.7 of the proposed rulemaking be clarified. Another four comments recommended retaining the language of § 3112.7 of the existing regulations. The comments were of the view that some definite formula should be established for making lands available for leasing under Subpart 3112 leasable under Subpart 3111, rather than making the decision discretionary with the Bureau of Land Management State Director, based on a determination that a parcel is not favorable for the production of oil or gas and that little or no leasing interest exists. This section has been revised in response to the comments by the final rulemaking. The final rulemaking provides that if no applications are received for a parcel, that parcel will be made available for leasing under Subpart 3111. It goes on to provide that if one or more applications are filed for a parcel and no lease subsequently issues, that parcel will be available for leasing only under Subpart 3112. The amendment also provides that parcels will become available for leasing under Subpart 3111 on the first day of the month following the posting of the results of the selection in the appropriate State office.

Another comment on § 3112.7 recommended retention of the provision for offering for lease under Subpart 3112 lands in addition to those in expired, terminated, cancelled or relinquished leases. This recommendation has been adopted by the final rulemaking by adding such language to § 3112.1–1.

Subpart 3120—Competitive Leases

One comment on § 3120.1(d) of the proposed rulemaking objected to what

was characterized as use of an arbitrary sale method or one that does not allow full public participation. The sale method utilized in § 3120.1(d) is not arbitrary and does allow for public participation. The section has been amended by the final rulemaking in response to a comment that raised the question of whether a lease sold under this section would be subject to the terms and conditions of the existing lease.

A comment proposed that the proposed rulemaking be amended to allow the execution of appropriate documents by agents and attorneys-in-fact for competitive bids. The final rulemaking adopts this recommendation with a change in § 3120.2–4.

The existing regulations provide that the successful high bidder is responsible for a proportionate share of the cost of publication of the notice of sale and a comment noted that this was not provided for in the proposed rulemaking. The final rulemaking adds this requirement to § 3120.4–3.

One comment recommended the elimination of the phrase "highest responsible, qualified bidder" from § 3120.5 of the proposed rulemaking. The phrase has been modified by the final rulemaking. Leases will be awarded to the qualified bidder submitting the highest acceptable bid. The acceptable bid amount is determined by the Bureau of Land Management to ensure that the United States receives fair market value for the leased resource.

The reference to bonding in § 3120.5(b) of the proposed rulemaking has been deleted by the final rulemaking. A bond is not generally required for lease issuance, with the bonding requirement provided for in subpart 3104 of the rulemaking. In addition, the period for return of an executed lease form has been increased from 15 to 30 days after receipt to provide the lessee more time to complete the lease and associated actions.

Two miscellaneous comments were directed to § 3120.8–2 of the proposed rulemaking. The first comment recommended that the Department of the Interior retain lower fractional interest rental and royalty rates. The rates set in the final rulemaking will ensure that the United States receives a fair rate of return on its interest in a valuable resource. The second comment questioned the use of the phrase "date that production is obtained" in § 3120.8–2(b) of the proposed rulemaking. The final rulemaking retains the phrase and refers to the date a resource begins to be sold from a producing well.

On December 3, 1982, the Secretary of the Interior ordered the transfer of certain functions of the Minerals Management Service to the Bureau of Land Management. Secretarial Order No. 3087 dated December 3, 1982, read in part: "All MMS onshore minerals management functions, including resource evaluation, approval of drilling permits and mining or production plans, inspection and enforcement, are transferred to the BLM." Therefore, the final rulemaking changes all references in the proposed rulemaking to the Minerals Management Service or authorized officers thereof to conform with Secretarial Order No. 3087, as amended.

The principal authors of this final rulemaking are Raul E. Martinez, Gregory P. Shoop and Marcia E. Rohn, Division of Oil and Gas, assisted by the staff of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management, and the staff of the Branch of Onshore Minerals of the Office of the Solicitor, Department of the Interior. Assistance was also given by personnel of other Department of the Interior agencies.

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

This final rulemaking is a restatement of existing regulations covering the issuance of oil and gas leases on the public lands. The rulemaking totally revises the language of the existing regulations to reduce the regulatory burden imposed on the affected public and to make the provisions of the regulations easier to read and understand. The change made by the final rulemaking does not make major changes in the procedure used for the issuance of oil and gas leases, procedure that has proven itself over years of use.

While a substantial number of small entities are subject to this final rulemaking, none of the changes are significant. Consequently, the final rulemaking does not impose any significant impacts, positive or negative on small entities.

The information collection requirements contained in 43 CFR Groups 3000 and 3100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0008, 1004–0034, 1004–0065, 1004–0074, 1004–0128, 1004–0134 and 1004–0145.

List of Subjects in 43 CFR Groups 3000 and 3100

43 CFR Part 3000

Public lands—classification, Public lands—mineral resources.

43 CFR Part 3040

Oil and gas exploration, Public lands—mineral resources.

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral resources.

43 CFR Part 3110

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3120

Administrative practice and procedure, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3150

Administrative practice and procedure, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Att. Gen 41), Groups 3000 and 3100, Subchapter C of Title 43 of the Code of

Federal Regulations are amended as set forth below.

James G. Watt,

Secretary of the Interior.

April 28, 1983.

A. Group 3000 is revised as follows:

GROUP 3000—MINERALS MANAGEMENT

Note.—The information collection requirements contained in Parts 3000 and 3040 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0128 and 1004–0145. The information is being collected to allow the authorized officer to determine if the applicant applying to engage in exploratory activity on the public lands is qualified to engage in that activity. This information will be used in making that determination. The obligation to respond is required to obtain a benefit.

PART 3000—MINERALS MANAGEMENT; GENERAL

Subpart 3000—General

Sec.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal year 1981 (Pub. L. 96–514), the Independent Office Appropriations Act of 1952 (31 U.S.C. 483a) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3000—General

§ 3000.0–5 Definitions.

As used in Groups 3000 and 3100 of this title, the term:

(a) "Gas" means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions.

(b) "Oil" means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all vein-type solid hydrocarbons).

(c) "Secretary" means the Secretary of the Interior.

(d) "Director" means the Director of the Bureau of Land Management.

(e) "Authorized officer" means any employee of the Bureau of Land Management authorized to perform the duties described in Group 3000 and 3100.

(f) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the lands subject to the regulations in which the term is used in Group 3000 and 3100, except that: (1) The Wyoming State Office shall be the proper office for applications filed under subpart 3112 of this title; and (2) all oil and gas lease offers and assignments for lands in Alaska shall be filed in the Alaska State Office, Anchorage, Alaska. (See § 1821.2–1 of this title for office location and area of jurisdiction of Bureau of Land Management offices)

(g) "Public domain lands, including mineral estates," means lands which never left the ownership of the United States, lands which were obtained by the United States in exchange and lands which have reverted to the ownership of the United States through operation of the public land laws.

(h) "Acquired lands" means lands which the United States obtained by deed through purchase or gift, or through condemnation proceedings, including lands previously disposed of under the public land laws including the mining laws.

(i) "Anniversary date" means the same day and month in succeeding years as that on which the lease became effective.

(j) "Act" means the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

(k) "Party in interest" means a party who is or will be vested with any legal or equitable rights under the lease. No one is a sole party in interest with respect to an application, offer or lease in which any other party has an interest.

(l) "Interest" means an interest in a lease but is not limited to, record title interests, overriding royalty interests, working interests, operating rights, options or any agreement covering such interests. Any claim or any prospective future claim to an advantage or benefit from a lease, and any participation or any defined or undefined share in any increments, issues or profits which may be derived, or which may accrue, in any manner from the lease based upon, or pursuant to any agreement or understanding existing at the time when the application or offer is filed, constitutes an interest in such lease. "Interest" does not include stock ownership, stockholding or stock control in a lease offer or in a bid, except for purposes of subpart 3112 of this title.

(m) "Surface managing agency" means any Federal agency outside of the Department of the Interior with jurisdiction over the surface overlying Federally-owned minerals.

(n) "Service" means the Minerals Management Service.

(o) "Bureau" means the Bureau of Land Management.

§ 3000.1 Nondiscrimination.

Any person acquiring a lease under this chapter shall comply fully with the equal opportunity provisions of Executive Order 11246 of September 24, 1965, as amended, and the rules, regulations and relevant orders of the Secretary of Labor (41 CFR Part 60 and 43 CFR Part 17).

§ 3000.2 False statements.

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to $10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction.

§ 3000.3 Unlawful interests.

No member of, or delegate to, Congress, or Resident Commissioner, and no employee of the Department of the Interior, except as provided in 43 CFR Part 20, shall be entitled to acquire or hold any Federal lease, or interest therein. (Officer, agent or employee of the Department—See 43 CFR Part 20; Member of Congress—See R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431–433.)

§ 3000.4 Appeals.

A party adversely affected by a decision of the authorized officer made pursuant to the provisions of group 3000 or group 3100 of this title shall have a right of appeal pursuant to part 4 of this title.

§ 3000.5 Limitations on time to institute suit to contest a decision of the Secretary.

No action contesting a decision of the Secretary involving any oil or gas lease, offer or application shall be maintained unless such action is commenced or taken within 90 days after the final decision of the Secretary relating to such matter.

§ 3000.6 Filing of documents.

All necessary documents shall be filed in the proper BLM office. A document shall be considered filed when it is received in the proper BLM office during

regular business hours (See § 1821.2 of this title).

§ 3000.7 Multiple development.

The granting of a permit or lease for the prospecting, development or production of deposits of any one mineral shall not preclude the issuance of other permits or leases for the same lands for deposits of other minerals with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations or selections of leased lands with a reservation of the mineral deposits to the United States.

PART 3040—EXPLORATION ACTIVITY

Subpart 3045—Geophysical Exploration (Oil and Gas)

Sec.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a).

Subpart 3045—Geophysical Exploration (Oil and Gas)

§ 3045.0–1 Purpose.

The purpose of this subpart is to establish procedures for conducting oil and gas geophysical exploration operations on the public lands. The procedures in this subpart do not apply to casual use or to exploration operations conducted by the lessee on leased lands except in Alaska; however, a lessee conducting such operations on a lease shall meet the bonding requirements set out in § 3045.4 of this title. In Alaska, a geophysical exploration permit shall be required on or off leased lands. The provisions of this subpart do not apply to section 1002 of the Alaska National Interest Land Conservation Act or to National Wildlife Refuge System lands.

§ 3045.0–2 Policy.

A notice of intent to conduct oil and gas exploration operations shall be accepted for oil and gas exploration activities in all States where public lands are open to oil and gas leasing with the exception of Alaska. In Alaska, oil and gas exploration activities shall not be conducted on the public lands without the issuance of a geophysical exploration permit. By agreement with a military agency, the Bureau may require a permit for oil and gas geophysical exploration operations on military lands.

§ 3045.0–5 Definitions.

As used in this subpart, the term:

(a) "Oil and gas geophysical exploration" means any activity on the public lands, the surface of which is administered by the Bureau of Land Management, relating to the search for evidence of oil and gas which requires physical presence upon the lands and which may result in damage to the public lands or the resources located thereon. It includes, but is not limited to, geophysical operations, construction of roads and trails and cross-country transit of vehicles over such lands. It does not include core drilling for subsurface geologic information or drilling for oil and gas; these activities shall only be authorized by the issuance of an oil and gas lease and the approval of an application for a permit to drill. The regulations in this subpart, however, are not intended to prevent drilling operations necessary for placing explosive charges, where permissible, for seismic exploration, nor do they affect the exclusive right to drill for oil and gas by a lessee upon the lease premises.

(b) "Public lands" means any lands, the surface of which is owned by the United States, within the several States and administered by the Secretary through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

(1) Lands located on the Outer Continental Shelf; and

(2) Lands held for the benefit of Indians, Aleuts and Eskimos.

(c) "Casual use" means activities that involve practices which do not ordinarily lead to any appreciable disturbance or damage to lands, resources and improvements. For example, activities which do not involve use of heavy equipment or explosives and which do not involve vehicle movement except over established roads and trails are casual use.

§ 3045.1 Suspension, revocation or cancellation.

All notices of intent and oil and gas geophysical exploration permits may be revoked or suspended, after notice, by the authorized officer and upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations issued under Acts applicable to the public lands and applicable State air and water quality standards or implementation plan. The Secretary may order an immediate temporary suspension of activities authorized under a permit or other use authorization prior to a hearing or final administrative finding if he/she determines that such a suspension is necessary to protect health or safety or the environment. Further, where other applicable law contains specific provisions for suspension, revocation or cancellation of a permit or other authorization to use, occupy or develop the public lands, the specific provisions of such law shall prevail.

§ 3045.2 Exploration outside of Alaska.

§ 3045.2–1 Notice of intent to conduct oil and gas geophysical expoloration operations.

Any person desiring to conduct oil and gas exploration operations, exclusive of those constituting casual use, on public lands outside the State of Alaska shall, prior to entry upon the public lands, file a Notice of Intent to Conduct Oil and Gas Exploration Operations, referred to herein as a notice of intent. The notice of intent shall be filed with the District Manager of the proper BLM office on the form approved by the Director. The completion of and signing of the form by the operator and his/her agent(s) or employee(s) signifies agreement to comply with the terms and conditions contained therein and in this subpart.

§ 3045.2–2 Notice of completion of operations.

Upon completion of exploration, there shall be filed with the District Manager a Notice of Completion of Oil and Gas Exploration Operations. Within 30 days after this filing, the authorized officer shall notify the party who conducted the operations whether all of the terms and conditions set out by the regulations in this subpart and in the notice of intent have been met, or what additional

action shall be required to rehabilitate the lands, specifying the nature and extent of the required action.

§ 3045.3 Exploration in Alaska.

§ 3045.3-1 Application for oil and gas geophysical exploration permit.

Any person wishing to conduct oil and gas exploration operations in Alaska on public lands as defined in this subpart, including the National Petroleum Reserve—Alaska, shall complete an application for an oil and gas geophysical exploration permit. The application shall contain the following information:

(a) The applicant's name and address;

(b) The operator's name and address;

(c) The contractor's name and address;

(d) A description of lands covered by the application by township and range, including a map or overlays showing the lands to be entered and affected;

(e) The period of time when operations will be conducted; and

(f) A plan for conducting the exploration operations.

The application shall be submitted, along with a non-refundable filing fee of $25, to the District Manager of the proper BLM office.

§ 3045.3-2 Action on application.

(a) The authorized officer shall review each application and approve or disapprove it within 90 calender days, unless compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) delays this action. The applicant shall be notified promptly in writing of any such delay.

(b) The authorized officer shall include in each geophysical exploration permit special terms and conditions needed to protect the natural land surface, other mineral resources and non-mineral resources. Geophysical permits within the National Petroleum Reserve—Alaska shall contain such conditions, restrictions and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonable adverse effects upon the surface resources of the Reserve and to satisfy the requirement of section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504). (See Part 3130 of this title for special stipulations relating to the National Petroleum Reserve—Alaska.)

(c) An exploration permit shall become effective on the date specified by the authorized officer and shall expire 1 year thereafter.

(d) For public lands, as defined in this subpart, subject to section 1008 of the Alaska National Interest Lands Conservation Act, exploration shall be authorized only upon a determination that such activities can be conducted in a manner which is consistent with the purposes for which the affected area is managed under applicable law.

§ 3045.3-3 Renewal of exploration permit.

Upon application by the permittee and payment of a non-refundable filing fee of $25, an exploration permit may be renewed by the authorized officer for a period not to exceed 1 year.

§ 3045.3-4 Relinquishment of exploration permit.

Subject to the continued obligations of the permittee and the surety to comply with the terms and conditions of the exploration permit and the regulations, the permittee may relinquish an exploration permit for all or any portion of the lands covered by it. Such relinquishment shall be filed with the District Manager of the proper BLM office.

§ 3045.3-5 Modification of exploration permit.

(a) A permittee may request, and the authorized officer may approve a modification of an exploration permit.

(b) The authorized officer may, after consultation with the permittee, require modifications he/she determines necessary to the exploration permit.

§ 3045.3-6 Collection and submission of data.

(a) The permittee shall submit to the Bureau all data and information obtained in carrying out the exploration plan.

(b) The Bureau shall not release such data and information and any processed, analyzed and interpreted material until such time as disclosure would not adversely affect, in the opinion of the authorized officer, the competitive position of the permittee.

§ 3045.3-7 Completion of operations.

(a) The permittee shall submit to the authorized officer a completion report within 30 days of completion of all operations under the permit. The completion report shall contain the following:

(1) A description of all work performed;

(2) Charts, maps or plats depicting the areas and blocks in which the exploration was conducted and specifically identifying the lines of geophysical traverses and any roads constructed;

(3) The dates on which the actual exploration was conducted;

(4) Such other information about the exploration operations as may be specified by the authorized officer in the permit; and

(5) A statement that all terms and conditions have been complied with or that corrective measures shall be taken to rehabilitate the lands or other resources.

(b) Within 90 days after the authorized officer receives a completion report from the permittee that exploration has been completed or after the expiration of the permit, whichever occurs first, the authorized officer shall notify the permittee of the specific nature and extent of any additional measures required to rectify any damage to the lands or resources.

§ 3045.4. Bond requirements.

(a) For each planned exploration, the party or parties filing the notice of intent or application for a permit shall simultaneously file, and a lessee, prior to commencing geophysical operations on a lease shall file with the authorized officer a bond, as described in § 3104.1 of this title, in the amount of at least $5,000, conditioned upon full and faithful compliance with all of the terms and conditions of this subpart, the notice of intent, permit or lease. In lieu thereof, the party or parties may file a statewide bond in the amount of $25,000 covering all oil and gas exploration operations in the same State or a nationwide bond in the amount of $50,000 covering all oil and gas exploration operations in the nation. Holders of statewide, nationwide or National Petroleum Reserve—Alaska oil and gas lease bonds shall be permitted to obtain a rider to include the coverage of oil and gas exploration operations.

(b) The authorized officer, on his/her motion, may increase the amount of any bond to be issued or any outstanding bond when additional coverage is needed to ensure protection of the lands and other resources.

(c) The authorized officer shall not consent to the cancellation of the bond or to the termination of liability unless and until all of the terms and conditions of the notice of intent permit or lease have been met. Should the authorized officer fail to notify the party within 90 days of the filing of the notice of completion that all terms and conditions have been met or that additional action shall be required to rehabilitate the lands, liability for that particular exploration operation shall automatically terminate on the 91st day.

B. Group 3100 is amended as follows:

Note.—The information collection requirements contained in Parts 3100, 3110 and 3120 have been approved by the Office of Management and Budget under 44 U.S.C. 3507

and assigned clearance numbers 1004—0008, 1004—0034, 1004—0065, 1004—0074, 1004—0128, 1004—0134 and 1004—0145. The information is being collected to allow the authorized officer to determine if an applicant to lease, explore for or develop Federal oil and gas is qualified to hold such lease. This information will be used in making that determination. The obligation to respond is required to obtain a benefit.

1. Part 3100 is revised to read as follows:

PART 3100—OIL AND GAS LEASING

Subpart 3100—Oil and Gas Leasing; General

Subpart 3101—Issuance of Leases

Subpart 3102—Qualifications of Lessees

Subpart 3103—Fees, Rentals and Royalty

Subpart 3104—Bonds

Subpart 3105—Cooperative Conservation Provisions

Subpart 3106—Assignments and Other Transfers

Subpart 3107—Continuation, Extension or Renewal

Subpart 3108—Relinquishment, Termination, Cancellation

Subpart 3109—Leasing Under Special Acts

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30

U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514), the Refuge Administration Act of 1966 (16 U.S.C. 668dd–ee), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3100—Onshore Oil and Gas Leasing; General

§ 3100.0–3 Authority.

(a) Public domain:

(1) Oil and gas in public domain lands and lands returned to the public domain under section 2370 of this title are subject to lease under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), by Acts, including, but not limited to, section 1009 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148).

(2) *Exceptions.*

(i) National parks and monuments, including lands withdrawn by section 206 of the Alaska National Interest Lands Conservation Act;

(ii) Indian reservations;

(iii) Incorporated cities, towns and villages; and

(iv) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska.

(v) Lands north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska; and

(vi) Arctic National Wildlife Refuge in Alaska.

(b) *Acquired lands.* (1) Oil and gas in acquired lands are subject to lease under the Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. 351–359).

(2) *Exceptions.* (i) National parks and monuments;

(ii) Incorporated cities, towns and villages;

(iii) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska;

(iv) Tidelands or submerged coastal lands within the continental shelf adjacent or littoral to lands within the jurisdiction of the United States;

(v) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals essential to the defense of the country, except oil, gas and other minerals subject to leasing under the Act;

(vi) Lands reported as excess under the Federal Property and Administrative Services Act of 1949; and

(vii) Lands acquired by the United States by foreclosure or otherwise for resale.

(c) National Petroleum Reserve—Alaska is subject to lease under the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514).

(d) Where oil is being drained from lands otherwise unavailable for leasing, there is implied authority in the agency having jurisdiction of those lands to grant authority to the Bureau of Land Management to lease such lands (See 43 U.S.C. 1457; also Attorney General's Opinion of April 2, 1941 (Vol. 40 Op. Atty. Gen. 41)).

(e) Where lands previously withdrawn or reserved from the public domain are no longer needed by the agency for which the lands were withdrawn or reserved and such lands are retained by the General Services Administration, or where acquired lands are declared as excess to the General Services Administration, authority to lease such lands may be transferred to the Department in accordance with the Federal Property and Administrative Services Act of 1949 and the Mineral Leasing Act for Acquired Lands, as amended.

(f) The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes the leasing of oil and gas deposits under certain rights-of-way to the owner of the right-of-way or any assignee.

(g) (1) The Act of May 9, 1942 (56 Stat. 273), as amended by the Act of October 25, 1949 (63 Stat. 886), authorizes leasing on certain lands in Nevada.

(2) The Act of March 3, 1933 (47 Stat. 1487), as amended by the Act of June 5, 1936 (49 Stat. 1482) and the Act of June 29, 1936 (49 Stat. 2026), authorizes leasing on certain lands patented to the State of California.

(3) The Act of June 30, 1950 (16 U.S.C. 508(b)) authorizes leasing on certain National Forest Service Lands in Minnesota.

(4) *National Park Service Areas.* The Secretary is authorized to permit mineral leasing in the following areas if he/she finds that such disposition would not have significant adverse effects on the administration of the area and if lease operations can be conducted in a manner that will preserve the scenic, scientific and historic features contributing to public enjoyment of the area, pursuant to the following authorities:

(i) *Lake Mead National Recreation Area*—The Act of October 8, 1964 (16 U.S.C. 460n et seq.)

(ii) *Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area*—The Act of November 8, 1965 (79 Stat. 1295; 16 U.S.C. 460q *et seq.*).

(iii) *Ross Lake and Lake Chelan National Recreation Areas*—The Act of October 2, 1968 (82 Stat. 926; 16 U.S.C. 90 *et seq.*).

(iv) *Glen Canyon National Recreation Area*—The Act of October 27, 1972 (86 Stat. 1311; 16 U.S.C. 460dd *et seq.*).

(5) *Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.* Section 6 of the Act of November 8, 1965 (Pub. L. 89–336; 79 Stat. 1295), authorizes the Secretary of the Interior to permit the removal of leasable minerals from lands (or interest in lands) within the recreation area under the jurisdiction of the Secretary of Agriculture in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351–359), if he finds that such disposition would not have significant adverse effects on the purpose of the Central Valley project or the administration of the recreation area.

§ 3100.0–5 Definitions.

As used in this part, the term:

(a) "Operator" means the person who has control or management of operations on the lease or a portion thereof. The operator may be the lessee or holder of rights acquired by an approved assignment of the operating rights.

(b) "Unit operator" means the person authorized under the agreement approved by the Department of the Interior to conduct operations within the unit.

(c) "Record title" means a lessee's interest in a lease which includes the obligation to pay rent, and the rights to assign and relinquish the lease. Overriding royalty and operating rights are severable from record title interests.

(d) "Operating right" (working interest) means the interest created out of a lease authorizing the holder of that right to enter upon the leased lands to conduct drilling and related operations, including production of oil or gas from such lands in accordance with the terms of the lease. Operating rights may or may not be transferred through an operating agreement.

(e) "Assignor" means the party assigning, subleasing or otherwise transferring to another an interest.

(f) "Assignee" means the party to whom a lease or an interest therein is being assigned, subleased or otherwise transferred.

(g) "National Wildlife Refuge System Lands" means lands and water, or

interests therein, administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife management areas or waterfowl production areas.

(h) "Designated operator" means the party designated by the lessee or holder of operating rights to conduct operations on the lease or a portion thereof.

(i) "Actual drilling operations" includes not only the physical drilling of a well, but the testing, completing or equipping of such well for production.

(j)(1) "Primary term" of lease subject to section 4(d) of the Act prior to the revision of 1960 [30 U.S.C. 226–1(d)] means all periods of the life of the lease prior to its extension by reason of drilling or production of oil and gas in paying quantities; and

(2) "Primary term" of all other leases means the initial term of the lease. For competitive leases, except those within the National Petroleum Reserve—Alaska, this means 5 years and for noncompetitive leases this means 10 years. The primary term of leases within the National Petroleum Reserve—Alaska shall not exceed 10 years.

(k) "Favorable petroleum geological province" "(FPGP)" means an area in Alaska as delineated by the authorized officer, within which oil or gas has been discovered, or within which available data indicate that there is a high probability that oil and gas will be discovered.

(l) "Known geological structure" "(KGS)" means technically the trap in which an accumulation of oil or gas has been discovered by drilling and determined to be productive, the limits of which include all acreage that is presumptively productive.

§ 3100.1 Helium.

The ownership of and the right to extract helium from all gas produced from lands leased or otherwise disposed of under the Act have been reserved to the United States.

§ 3100.2 Drainage.

§ 3100.2–1 Compensation for drainage.

Upon a determination by the authorized officer that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, the authorized officer may execute agreements with the owners of adjacent lands whereby the United States and its lessees shall be compensated for such drainage. Such agreements shall be made with the consent of any lessee affected by an agreement. Such lands may also be offered for lease in accordance with Part 3120 of this title.

§ 3100.2–2 Drilling and production or payment of compensatory royalty.

Where lands in any leases are being drained of their oil or gas content by wells either on a Federal lease issued at a lower rate of royalty or on non-Federal lands, the lessee shall both drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling necessary wells, the lessee may, with the consent of the authorized officer, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

§ 3100.3 Competitive and noncompetitive leasing areas.

§ 3100.3–1 Determination by Bureau.

The authorized officer shall determine the boundaries of known geological structures of producing oil or gas fields outside of Alaska and favorable petroleum geological provinces in Alaska. All lands within such boundaries shall only be leased competitively to the highest responsible qualified bidder. All other lands shall be leased, noncompetitively, if at all, to the first qualified applicant.

§ 3100.3–2 Date determinative of rights.

If the producing character of a structure or the favorable nature of a geological province in Alaska is actually determined by the authorized officer prior to the date of the official pronouncement of the Bureau on that subject, the date that the determination is made and not the date of pronouncement establishes whether the lands shall be leased competitively.

§ 3100.4 Options.

§ 3100.4–1 Enforceability.

(a) No option to acquire any interest in a lease shall be enforceable if entered into for a period of more than 3 years (including any renewal period that may be provided for in the option) without the approval of the Secretary.

(b) No option or renewal thereof shall be enforceable until a signed copy or notice or option has been filed in the proper BLM office. Each such signed copy or notice shall include:

(1) The names and addresses of the parties thereto;

(2) The serial number of the lease to which the option is applicable;

(3) A statement of the number of acres covered by the option and of the interests and obligations of the parties to the option; and

(4) The interest to be conveyed and retained in exercise of the option. Such notice shall be signed by all parties to the option or their duly authorized agents. The signed copy of notice of option required by this paragraph shall contain or be accompanied by a signed statement by the holder of the option that he/she is the sole party in interest in the option; if not, he/she shall set forth the names and provide a description of the interest therein of the other interested parties, and provide a description of the agreement between them, if oral, and a copy of such agreement, if written.

§ 3100.4–2 Effect of option on acreage.

The acreage to which the option is applicable shall be charged both to the grantor of the option and the option holder. The acreage covered by an unexercised option remains charged during its term until notice of its relinquishment or surrender has been filed in the proper BLM office.

§ 3100.4–3 Option statements.

Each option holder shall file in the proper BLM office within 90 days after June 30 and December 31 of each year duplicate statements showing as of the prior June 30 and December 31, respectively, any changes to the statements submitted under § 3100.4–1(b) of this title.

(a) His/her name and address and the name and address of each grantor of an option held by him/her, the serial number of every lease subject to option;

(b) Date and expiration date of each option;

(c) Number of acres covered by each option;

(d) Aggregate number of options held in each State, and the total acreage thereof; and

(e) A statement of his/her interest and obligation under each option; provided, that the statement of his/her interest and obligation with respect to any option shall not be required where such interests and obligations have been set forth in the notice required under § 3100.4–1(b) of this title and there have been no changes in such interests and obligations since such filing.

Subpart 3101—Issuance of Leases

§ 3101.1 Lease terms and conditions.

§ 3101.1–1 Standard forms.

All leases shall be issued on an appropriate form approved by the Director and shall be subject to the terms and conditions printed in the form.

§ 3101.1-2 Special stipulations.

The authorized officer may require stipulations in addition to those contained in the lease form as conditions to leasing. These stipulations and stipulations required by an agency other than the Bureau shall become part of the lease and the lease shall be issued only if either: (a) The stipulations do not absolutely bar exploration of the resource and extraction is technically feasible; or (b) the lease as stipulated is otherwise acceptable to the offeror. Stipulations which become part of the lease shall supersede any inconsistent provisions printed in the lease form. This includes among others, the regulations in this group and in 30 CFR Parts 221, 223, 225 and 226.

§ 3101.2 Acreage limitations.

§ 3101.2-1 Public domain lands.

(a) No person or entity shall take, hold, own or control more than 246,080 acres of Federal oil and gas leases in any one State at any one time. No more than 200,000 acres of such acres may be held under option.

(b) In Alaska, the acreage that can be taken, held, owned or controlled is limited to 300,000 acres in the northern leasing district and 300,000 acres in the southern leasing district, of which no more than 200,000 acres may be held under option in each of the 2 leasing districts. The boundary between the 2 leasing districts in Alaska is the left limit of the Tanana River from the boundary between the United States and Canada to the confluence of the Tanana River and Yukon River and the left limit of the Yukon River from said confluence to its principal southern mouth.

§ 3101.2-2 Acquired lands.

An acreage limitation separate from, but equal to the acreage limitation for public domain lands described in § 3101.2-1 of this title, applies to acquired lands. Where the United States owns only a fractional interest in the mineral resources of the lands involved in a lease, only that part owned by the United States shall be charged as acreage holdings. The acreage embraced in a future interest lease shall not be charged as acreage holdings until the lease for the future interest becomes effective.

§ 3101.2-3 Excepted acreage.

Leases committed to any unit or cooperative plan approved or prescribed by the Secretary and leases subject to an operating, drilling or development contract approved by the Secretary, other than communitization agreements, shall not be included in computing accountable acreage.

§ 3101.2-4 Excess acreage.

(a) Where, as the result of the termination or contraction of a unit or cooperative plan, the elimination of a lease from an operating, drilling or development contract a party holds or controls excess accountable acreage, said party shall have 90 days from that date to reduce the holdings to the prescribed limitation and to file proof of the reduction in the proper BLM office. Where as a result of a merger or the purchase of the controlling interest in a corporation, acreage in excess of the amount permitted is acquired, the party holding the excess acreage shall have 180 days from the date of the merger or purchase to divest the excess acreage. If additional time is required to complete the divestiture of the excess acreage, a petition requesting additional time, along with a full justification for the additional time, may be filed with the authorized officer prior to the termination of the 180 day period provided herein.

(b) If any person or entity is found to hold accountable acreage in violation of the provisions of these regulations, lease(s) or interests therein shall be subject to cancellation or forfeiture in their entirety, until sufficient acreage has been eliminated to bring the lessee within the acreage limitation. Excess acreage or interest shall be cancelled in the inverse order of acquisition.

§ 3101.2-5 Computation.

The accountable acreage of a party owning an undivided interest in a lease shall be the party's proportionate part of the total lease acreage. The accountable acreage of a party who is the beneficial owner of more than 10 percent of the stock of a corporation which holds Federal oil and gas leases shall be the party's proportionate part of the corporation's accountable acreage. Parties to a contract for development of leased lands and co-lessees shall be charged with their proportionate interests in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the laws for any one lessee shall be permitted.

§ 3101.2-6 Showing required.

At any time the authorized officer may require any lessee or operator to file with the Bureau of Land Management a statement showing as of specified date the serial number and the date of each lease in which he/she has any interest, in the particular State, setting forth the acreage covered thereby.

§ 3101.3 Leases within unit areas.

§ 3101.3-1 Joinder evidence required.

Before issuance of a lease for lands within an approved unit, the lease offeror shall file evidence with the proper BLM office of having joined in the unit agreement and unit operating agreement or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable to the authorized officer the lessee shall be permitted to operate independently but shall be required to conform to the terms and provisions of the unit agreement with respect to such operations.

§ 3101.3-2 Separate leases to issue.

A noncompetitive lease offer for lands partly within and partly without the boundary of a unit shall result in separate leases, one for the lands within the unit, and one for the lands outside the unit.

§ 3101.4 Lands covered by application to close lands to mineral leasing.

Offers filed on lands within a pending application to close lands to mineral leasing shall be suspended until the segregative effect of the application is final.

§ 3101.5 National Wildlife Refuge System lands.

§ 3101.5-1 Wildlife refuge lands.

(a) Wildlife refuge lands are those lands embraced in a withdrawal of public domain and acquired lands of the United States for the protection of all species of wildlife within a particular area. Sole and complete jurisdiction over such lands for wildlife conservation purposes is vested in the Fish and Wildlife Service even though such lands may be subject to prior rights for other public purposes or, by the terms of the withdrawal order, may be subject to mineral leasing.

(b) No offers for oil and gas leases covering wildlife refuge lands shall be accepted and no leases covering such lands shall be issued except as provided in § 3100.2 of this title. There shall be no drilling or prospecting under any lease heretofore or hereafter issued on lands within a wildlife refuge except with the consent and approval of the Secretary with the concurrence of the Fish and Wildlife Service as to the time, place and nature of such operations in order to give complete protection to wildlife populations and wildlife habitat on the areas leased, and all such operations shall be conducted in accordance with

the stipulations of the Bureau on a form approved by the Director.

§ 3101.5–2 Coordination lands.

(a) Coordination lands are those lands withdrawn or acquired by the United States and made available to the States by cooperative agreements entered into between the Fish and Wildlife Service and the game commissions of the various States, in accordance with the Act of March 10, 1934 (48 Stat. 401), as amended by the Act of August 14, 1946 (60 Stat. 1080), or by long-term leases or agreements between the Department of Agriculture and the game commissions of the various States pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, where such lands were subsequently transferred to the Department of the Interior, with the Fish and Wildlife Service as the custodial agency of the United States.

(b) Representatives of the Bureau and the Fish and Wildlife Service shall, in cooperation with the authorized members of the various State game commissions, confer for the purpose of determining by agreement those coordination lands which shall not be subject to oil and gas leasing. Coordination lands not closed to oil and gas leasing shall be subject to leasing on the imposition of such stipulations as are agreed upon by the State Game Commission, the Fish and Wildlife Service and the Bureau.

§ 3101.5–3 Alaska wildlife areas.

No lands within a refuge in Alaska open to leasing shall be available until the Fish and Wildlife Service has first completed compatability determinations.

§ 3101.5–4 Stipulations.

Leases shall be issued subject to stipulations prescribed by the Fish and Wildlife Service as to the time, place, nature and condition of such operations in order to minimize impacts to fish and wildlife populations and habitat and other refuge resources on the areas leased. The specific conduct of lease activities on any refuge lands shall be subject to site-specific stipulations prescribed by the Fish and Wildlife Service.

§ 3101.6 Recreation and public purposes lands.

Under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), all lands within Recreation and Public Purposes leases and patents are subject to lease under the provisions of this part, subject to such conditions as the Secretary deems appropriate.

§ 3101.7 Federal lands administered by an agency outside of the Department of the Interior.

§ 3101.7–1 General requirements.

(a) Acquired lands shall only be leased with the consent of the surface managing agency.

(b) Public domain lands shall only be leased after the Bureau of Land Management has consulted with the surface managing agency, unless consent is required by law.

§ 3101.7–2 Submittal to surface managing agency.

Upon receipt of a noncompetitive lease offer under subpart 3111 of this title or upon the availability of lands under subpart 3112 or 3120 of this title, the surface of which is not under the jurisdiction of the Bureau of Land Management, the authorized officer shall submit a description of the lands involved to the appropriate office of the surface managing agency for review.

§ 3101.7–3 Review by surface managing agency.

The surface managing agency shall report to the authorized officer as follows:

(a) As to lands on which consent of the surface managing agency is required, that it consents to leasing with special stipulations, if any, or that it withholds its consent;

(b) As to lands on which consultation with the surface managing agency is required, that it concurs in or recommends leasing with special stipulations, if any, or recommends against leasing, providing reasons therefor.

§ 3101.7–4 Action by the Bureau of Land Management.

(a) Where the surface managing agency has consented to leasing with required stipulations, and the Secretary decides to issue a lease, the authorized officer shall incorporate the stipulations into any lease which it may issue. The authorized officer may add additional stipulations.

(b) The authorized officer shall not issue a lease and shall reject any lease offer on lands for which the surface managing agency withholds consent required by statute. In all other instances, the Secretary has the final authority and discretion to decide to issue a lease.

(c) The authorized officer shall review all recommendations and shall accept all reasonable recommendations of the surface managing agency.

§ 3101.7–5 Appeals.

(a) The decision of the authorized officer to reject an offer to lease or to issue a lease with special stipulations recommended by the surface managing agency may be appealed to the Interior Board of Land Appeals under part 4 of this title.

(b) Where the surface managing agency has required that special stipulations be included in a lease or has refused to consent to leasing, an affected lease offeror may pursue the administrative remedies provided by the particular surface managing agency.

§ 3101.8 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

Where the United States has conveyed title to, or otherwise transferred the control of the surface of the lands containing oil and gas to any State or political subdivision, agency or instrumentality thereof, or a college or any other educational corporation or association, or a charitable or religious corporation or association, with reservation of the oil and gas rights to the United States, such party shall be given written notification of the offer to lease by certified mail and shall be given a reasonable time, not to exceed 90 days, within which to suggest any lease stipulations deemed necessary for the protection of existing surface improvements or uses, to set forth the facts supporting the necessity of the stipulations and also to file any objections it may have to the issuance of the lease. Where a party controlling the surface opposes the issuance of a lease or wishes to place such restrictive stipulations upon the lease that it could not be operated upon or become part of a drilling unit and hence is without mineral value, the facts submitted in support of the opposition or request for restrictive stipulations shall be given consideration and each case decided on its merits. The opposition to lease or necessity for restrictive stipulations expressed by the party controlling the surface affords no legal basis or authority to refuse to issue the lease or to issue the lease with the requested restrictive stipulations for the reserved minerals in the lands; in such case, the final determination whether to issue and with what stipulations, or not to issue the lease depends upon whether or not the interests of the United States would best be served by the issuance of the lease.

Subpart 3102—Qualifications of Lessees

§ 3102.1 Who may hold leases.

Leases may be acquired and held only by citizens of the United States; associations (including partnerships and trusts) of such citizens; corporations organized under the laws of the United States or of any State or Territory thereof; and municipalities.

§ 3102.2 Aliens.

Leases or interests therein may be acquired and held by aliens only through stock ownership, holding or control; and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. A list of those countries which do not provide "similar or like" privileges is available from any Bureau of Land Management office.

§ 3102.3 Minors.

Leases shall not be acquired or held by one considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf.

§ 3102.4 Signatures.

All applications, offers competitive bids, assignments and requests for approval of an assignment shall be holographically (manually) signed in ink and dated by the present or potential lessee or by anyone authorized to sign on behalf of the present or potential lessee. Documents signed by anyone other than the present or potential lessee shall be rendered in a manner to reveal the name of the present or potential lessee, the name of the signatory and their relationship. Submission of a qualifications number shall not meet this requirement, except for offers filed under § 3112.6–1(b)(3) of this title. (Example: John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith.) Machine or rubber stamped signatures shall not be used.

§ 3102.5 Evidence.

Submission of an application for, offer for or request for approval of an assignment of a lease issued under the act, constitutes certification of compliance with the regulations of this group and the act. Compliance means that the potential lessee, all other parties who hold an interest (as defined in § 3100.0–5(k) of this title) and all persons who are members of an association in the application, offer, assignment or lease and all parties who hold or control more than 10 percent of the instruments of ownership or control in a lessee which is a corporation or association are: (a) Citizens of the United States or qualified stockholders in a domestic corporation (see § 3102.2 of this title); (b) in compliance with the Federal acreage limitations (see § 3101.2 of this title); (c) not minors (see § 3102.3 of this title); and (d) not participants in any agreement, scheme, plan or arrangement prohibited in relation to simultaneous oil and gas leasing (see § 3112.5–1(b) of this title). Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein, shall upon demand submit additional information to show compliance with the regulations of this group and the act. Additional information concerning agents/attorneys-in-fact shall be required for offers filed under § 3112.6–1 of this title.

Subpart 3103—Fees, Rentals and Royalty

§ 3103.1 Payments.

§ 3103.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency. Persons who remit filing fees under the simultaneous oil and gas leasing program whose remittances are returned unpaid shall be assessed a $10 service charge for each remittance. Applicants shall be barred from filing applications for or acquiring leases until after the returned remittances are redeemed and the service charge paid.

§ 3103.1–2 Where submitted.

(a) All filing fees for lease applications, offers or for applications for approval of an instrument of transfer, and all rentals on nonproducing and nonunitized leases shall be paid to the proper BLM office. All remittances shall be made payable to the Bureau of Land Management.

(b) All rentals and royalties on producing leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable and all payments under subsurface storage agreements and easements for directional drilling shall be paid to the Service.

§ 3103.2 Rentals.

§ 3103.2–1 Rental requirements.

(a) Each offer shall be accompanied by full payment of the first year's rental based on the total acreage, if known, and, if not known, on the basis of 40 acres for each smallest legal subdivision. An offer deficient in the first year's rental by not more than 10 percent or $200, whichever is less, shall be accepted by the authorized officer provided all other requirements are met. Rental submitted shall be determined based on the total amount remitted less all required fees. The additional rental shall be paid within 30 days from notice of the deficiency under penalty of cancellation of the lease.

(b) Rental shall not be prorated for any lands in which the United States owns an undivided fractional interest but shall be payable for the full acreage in such lands.

§ 3103.2–2 Advance rental payments.

Rentals shall be paid on or before the anniversary date of the lease. A full year's rental shall be required even if less than a full year remains in the lease term. Failure to make timely payment shall cause a lease to terminate automatically by operation of law. If the proper BLM office is not open on the anniversary date, payment received on the next day the proper BLM office is open to the public shall be deemed to be timely filed. Payments made to an improper BLM office shall be returned and shall not be forwarded to the proper BLM office. Rental shall be payable at the following rates:

(a) On leases issued under subpart 3112 of this title, an annual rental of $1 per acre or fraction thereof for each of the first 5 lease years and an annual rental of $3 per acre or fraction thereof for each remaining lease year;

(b) On leases issued under subpart 3111 of this title, an annual rental of $1 per acre or fraction thereof;

(c) On competitive leases, an annual rental of $2 per acre or fraction thereof;

(d) On lands within a lease issued under subpart 3111 of this title after the effective date of this regulation which is later determined to be within a known geologic structure outside of Alaska or a favorable geologic province in Alaska, the annual rental shall be $2 per acre or fraction thereof beginning with the first lease year after the expiration of 30-days notice to the lessee. During the first 5 years of the lease term, the same rental increase is applicable to leases issued under subpart 3112 of this title.

(e) On exchange or renewal leases issued after the effective date of this regulation, the annual rental shall be $2 per acre or fraction thereof;

(f) On leases issued in any other way, an annual rental of $1 per acre or fraction thereof;

(g) Rental shall not be due on acreage for which royalty is being paid;

(h) The annual rental for leases issued prior to the effective date of this regulation is as established in the lease; and

(i) On lands within a lease issued under subparts 3111 and 3112 of this title, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental described for the respective lease years in paragraphs (a) and (b) of this section shall apply to the acreage not within a participating area.

§ 3103.3 Royalties

§ 3103.3–1 Royalty on production.

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. The following royalty rates shall be paid on production removed or sold from leases:

(1) 12½ percent royalty on noncompetitive leases;

(2) Such rates as are prescribed in the notice of sale in the case of all leases issued by competitive bidding;

(3) From lands within exchange and renewal leases, the rate of royalty shall be identical to that prescribed in the prior leases, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States, the royalty rate shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110, the royalty rate shall be 12½ percent;

Over 110, but not over 130, the royalty rate shall be 18 percent of all production;

Over 130, but not over 150, the royalty rate shall be 19 percent of all production;

Over 150, but not over 200, the royalty rate shall be 20 percent of all production;

Over 200, but not over 250, the royalty rate shall be 21 percent of all production;

Over 250, but not over 300, the royalty rate shall be 22 percent of all production;

Over 300, but not over 350, the royalty rate shall be 23 percent of all production;

Over 350, but not over 400, the royalty rate shall be 24 percent of all production; and

Over 400, the royalty rate shall be 25 percent of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide and all other natural gases and mixtures thereof, and on casinghead gasoline and other liquid products obtained from gas, when the production per well per calendar day for the month is:

Not in excess of 5 million cubic feet, the royalty rate shall be 12½ percent of the amount or value of the gas and liquid products produced; and

In excess of 5 million cubic feet, the royalty rate shall be 16⅔ percent of the amount or value of the gas and liquid products produced.

(b) The average production per well per day for oil and gas shall be determined pursuant to 30 CFR Part 221, "Oil and Gas Operating Regulations."

(c) In determining the amount or value of gas and liquid products produced, the amount or value shall be net after the cost of manufacture. The allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only with the approval of the Secretary.

(d) The Secretary may establish reasonable values for purposes of computing royalty rates on any or all oil, gas, natural gasoline and other liquid products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters. In appropriate cases, this will be done after notice to the parties and opportunity to be heard.

(e) Payment of a royalty on the helium component of gas shall not convey the right to extract the helium. Applications for the right to extract helium shall be made under 43 CFR Part 16.

§ 3103.3–2 Minimum royalties.

(a) On leases issued on or after August 8, 1946, and on those issued prior thereto, if the lessee files an election under section 15 of the Act of August 8, 1946, a minimum royalty of $1 per acre in lieu of rental shall be payable at the expiration of each lease year after a discovery has been made on the leased lands commencing with the lease year, beginning on or after the date of such discovery; except that on unitized leases, the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $1 per acre, the lessee shall pay the difference at the expiration of the lease year.

(b) Minimum royalties shall not be prorated for any lands in which the United States owns a fractional interest but shall be payable on the full acreage of the lease.

(c) Minimum royalties and rentals on non-participating acreage shall be payable to the Service until the lease accounts on the non-participating acreage are returned to the Bureau of Land Management.

§ 3103.3–3 Limitation on overriding royalties.

An agreement creating overriding royalties or payments out of the production of oil and gas which, when added to overriding royalties or payments out of production previously created and to the royalty payable to the United States, aggregate in excess of 17½ percent may be suspended by the Secretary at any time upon a determination that the excess constitutes a burden on lease operations to the extent that proper and timely development may be retarded, or continued operation of the lease impaired, or premature abandonment of the wells caused. The limitations in this section shall apply separately to any zone or portion of a lease segregated for computing royalty due the United States.

§ 3103.4 Promotion of development.

§ 3103.4–1 Waiver, suspension or reduction of rental, royalty or minimum royalty.

(a) In order to encourage the greatest ultimate recovery of oil or gas and in the interest of conservation, the Secretary, upon a determination that is necessary to promote development or that the leases cannot be successfully operated under the terms provided therein, may waive, suspend or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold, or any portion thereof.

(b)(1) An application for the above benefits shall be filed in triplicate in the proper BLM office. It shall contain the serial number of the leases, the proper BLM office name, the name of the record title holder and operator or sub-lessee, the description of the lands by legal subdivision and a description of the relief requested.

(2) Each application shall show the number, location and status of each well drilled, a tabulated statement for each month covering a period of not less than 6 months prior to the date of filing the application of the aggregate amount of oil or gas subject to royalty, the number of wells counted as producing each month and the average production per well per day.

(c) Every application shall contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any production and all facts tending to show whether the wells can be successfully operated upon the fixed royalty or rental. Where the application is for a reduction in royalty, full information shall be

furnished as to whether royalties or payments out of production are paid to others than the United States, the amounts so paid and efforts made to reduce them. The applicant shall also file agreements of the holders to a reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the royalties due the United States.

§ 3103.4–2 Suspension of operations and production.

(a) Applications for relief from production requirements or from operating requirements shall be filed in triplicate in the proper BLM office. No suspension of operations and production shall be granted except where the authorized officer directs or consents to a suspension in the interest of conservation. Complete information shall be furnished showing the necessity of such relief.

(b) The term of any lease shall be extended by adding thereto any period of suspension of all operations and production during such term pursuant to any direction or assent of the authorized officer.

(c) A suspension shall take effect as of the time specified in the direction or assent of the authorized officer. Rental and minimum royalty payments shall be suspended during any period of suspension of all operations and production directed or assented to by the authorized officer beginning with the first day of the lease month on which the
suspension of operations or production becomes effective or if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which the operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty due under the terms of the lease.

(d) No lease shall be deemed to expire during a suspension of either operations or production.

(e) If there is a well capable of producing on the lease and all operations and production are suspended, the commencement of drilling operations shall be regarded as terminating the suspension of operations but not the suspension of production, and as terminating the period to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section.

(f) The relief authorized under this section may also be obtained for any lease included within an approved unit or cooperative plan of development and operation.

Subpart 3104—Bonds

§ 3104.1 Bond obligations.

(a) Prior to the commencement of drilling operations, the lessee or operator or designated operator shall submit a surety or personal bond as described in this subpart.

(b) Surety bonds shall be issued by qualified surety companies approved by the Department of the Treasury (See Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by:

(1) Cash;

(2) Cashier's check;

(3) Certified check; or

(4) Negotiable Treasury bonds of the United States of a value equal to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of the lease.

§ 3104.2 Lessee and operator bonds.

(a) A lessee's general lease and drilling bond shall be in an amount of not less than $10,000 conditioned upon compliance with all the terms and conditions of the lease.

(b) An operator's bond in an amount of not less than $10,000 conditioned upon compliance with all of the terms and conditions of the lease, may be furnished in lieu of a general lease and drilling bond, if the operator holds the operating rights or is a designated operator. Where 2 or more operators have interests in different formations or portions of the lease, each operator may file an operator's bond in his/her own name as principal on the bond in lieu of the lessee's bond. The operator on the ground, whether approved or designated, shall be covered by either a general lease and drilling bond or an operator's bond.

§ 3104.3 Statewide and nationwide bonds.

(a) In lieu of general lease and drilling bonds or operator's bonds, lessees or operators may furnish a bond in an amount of not less than $25,000 covering all leases and operations in any one State.

(b) In lieu of general lease and drilling bonds, operator's bonds or statewide bonds, lessees or operators may furnish a bond in an amount of not less than $150,000 covering all leases or operations nationwide.

§3104.4 Unit operator's bond.

The approved unit operator may furnish and maintain a unit operator bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms and conditions of every lease subject thereto in lieu of a separate general lease and drilling bond or operator's bond for each lease committed to the unit agreement. All unit operator's bonds shall be furnished upon request and in the amount recommended by the authorized officer.

§ 3104.5 Increased amount of bonds.

The authorized officer may elect to increase the amount of any bond to be issued or any outstanding bond when additional coverage is determined appropriate.

§ 3104.6 Where filed and number of copies.

All bonds shall be filed in the proper BLM office on a form approved by the Director. A single copy executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety is sufficient.

§ 3104.7 Default.

(a) Where, upon a default, the surety makes a payment to the United States of an obligation incurred under a lease, the face amount of the surety bond or personal bonds and the surety's liability thereunder shall be reduced by the amount of such payment.

(b) After default, upon penalty of cancellation of all of the leases covered by such bond, that principal shall either post a new bond or increase the existing bond to the amount previously held by the United States, within 6 months after notice, or within such shorter period as may be fixed by the authorized officer. In lieu thereof, the principal may within that time file separate or substitute bonds for each lease or operating agreement.

§ 3104.8 Termination of period of liability.

The authorized officer shall not give consent to termination of the period of liability of any bond unless an acceptable alternative bond has been filed or until all the terms and condition of the lease have been met.

Subpart 3105—Cooperative Conservation Provisions

§ 3105.1 Cooperative or unit agreement.

The suggested contents of such an agreement and the procedures for obtaining approval are contained in 30 CFR Part 226.

§ 3105.2 Communitization or drilling agreements.

§ 3105.2-1 Where filed.

(a) Requests to communitize separate tracts shall be filed, in triplicate, with the proper BLM office.

(b) Where a duly executed agreement is submitted for final Departmental approval, a minimum of 3 signed counterparts shall be submitted. If State lands are involved, 1 additional counterpart shall be submitted.

§ 3105.2-2 Purpose.

When a lease or a portion thereof cannot be independently developed and operated in conformity with an established well-spacing or well-development program, the authorized officer may approve communitization or drilling agreements for such lands with other lands, whether or not owned by the United States, upon a determination that it is in the public interest. Operations or production under such an agreement shall be deemed to be operations or production as to each lease committed thereto.

§ 3105.2-3 Requirements.

The agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of the United States. The agreement shall be signed by or on behalf of all necessary parties and shall be effective only if approved by the authorized officer. Approved communitization agreements are considered effective from the date of the agreement or from the date of the onset of production from the communitized parcels, whichever is earlier. Execution by, or on behalf of, all necessary parties to a communitization agreement covering a Federal lease shall precede the expiration of that lease in order to confer the benefits of the agreement upon it. Generally, a lessee should file a communitization agreement for approval by the authorized officer as soon as the agreement has been signed by, or on behalf of, all necessary parties. An agreement filed with the authorized officer for approval after the subject Federal lease was due to expire may be approved only if it is filed before the Bureau has given notice to the public that the subject lands are available for lease. No communitization agreement shall be approved with respect to lands which have been subsequently leased to a different lessee. The original agreement need not be in the form required for approval by the Bureau, but may be any agreement between lessees and operators, such as an operating agreement, evidencing the intent of the parties to combine, and having the effect of combining, their leases or interests for operational purposes. If the agreement that combined such leases or interests is other than a formal communitization agreement acceptable for filing and approval as such, the parties shall submit such an agreement in proper form, which, if submitted and approved, shall be deemed effective as of the date of the earlier agreement between the parties that combined their leases or interests or, as of the date of the onset of production from the communitized parcels, whichever is earlier.

§ 3105.3 Operating, drilling or development contracts.

§ 3105.3-1 Where filed.

A contract submitted for approval under this section shall be filed with the proper BLM office, together with enough copies to permit retention of 5 copies by the Department after approval.

§ 3105.3-2 Purpose.

Approval of operating, drilling or development contracts ordinarily shall be granted only to permit operators or pipeline companies to enter into contracts with a number of lessees sufficient to justify operations on a scale large enough to justify the discovery, development, production or transportation of oil or gas and to finance the same.

§ 3105.3-3 Requirements.

The contract shall be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan for development and operation of the field. All the contracts held by the same contractor in the area or field shall be submitted for approval at the same time and full disclosure of the projects made.

§ 3105.4 Combination for joint operations or for transportation of oil.

§ 3105.4-1 Where filed.

An application under this section together with sufficient copies to permit retention of 5 copies by the Department after approval shall be filed with the Director.

§ 3105.4-2 Purpose.

Upon obtaining approval of the authorized officer, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing as a common carrier a pipeline or lines or railroads to be operated and used by them jointly in the transportation of oil or gas from their wells or from the wells of other lessees.

§ 3105.4-3 Requirements.

The application shall show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of oil and gas which would be inconsistent with the anti-monopoly provisions of law.

§ 3105.4-4 Rights-of-way.

Rights-of-way for pipelines may be granted as provided in part 2880 of this title.

§ 3105.5 Subsurface storage of oil and gas.

§ 3105.5-1 Where filed.

(a) Applications for subsurface storage shall be filed in the proper BLM office.

(b) Enough copies of the final agreement signed by all the parties in interest shall be submitted to permit the retention of 5 copies by the Department after approval.

§ 3105.5-2 Purpose.

In order to avoid waste and to promote conservation of natural resources, the Secretary, upon application by the interested parties, may authorize the subsurface storage of oil and gas, whether or not produced from lands owned by the United States. Such authorization shall provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced.

§ 3105.5-3 Requirements.

The agreement shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental or royalty offered to be paid for such storage and all essential information showing the necessity for such project.

§ 3105.5-4 Extension of lease term.

Any lease used for the storage of oil or gas shall be extended for the period

of storage under an approved agreement. The obligation to pay annual lease rent continues during the extended period.

Subpart 3106—Assignments and Other Transfers

§ 3106.1 Assignments, general.

(a) Leases may be assigned as to all or part of the acreage in the lease or as to either a divided or undivided interest therein. An assignment of a separate zone or deposit or of part of a legal subdivision shall be disapproved unless the necessity of the assignment is established and it is determined that such assignment is in the best interest of the United States. The rights of the assignee to a lease or an interest therein shall not be recognized by the Department until the assignment has been approved by the authorized officer. An application for approval of any instrument of transfer of a lease or interest in a lease shall be filed within 90 days from the date of execution. The 90-day filing period shall begin on the date the assignor signs and dates the assignment. Assignments filed after the 90th day may be approved provided the assignor and assignee state to the proper BLM office that the assignment is still in force and provided that no intervening assignment(s) involving all or part of the interest(s) being assigned has been filed for approval. An assignment of production payments or overriding royalty shall be filed in the proper BLM office but shall not require approval. An assignment may be withdrawn, in writing signed by the assignor and the assignee, if the assignment has not already been approved by the authorized officer.

(b) No assignment of an offer to lease or interest in a lease shall be approved prior to the issuance of the lease. No agreement or option to assign a simultaneous oil and gas lease or interest therein shall be made or given prior to the issuance date of the lease or 60 days from the date of selection, whichever comes first. The existence of such a prior agreement or option shall result in disapproval of the subsequent assignment.

§ 3106.2 Qualifications of assignees.

Assignees shall comply with the provisions of subpart 3102 of this title and post any bond that may be required.

§ 3106.3 Filing fees.

In order to be accepted for filing, each instrument of assignment of record title, operating rights, royalty interest or payment out of production shall be accompanied by a nonrefundable filing fee of $25. Any instrument not accompanied by the required $25 filing fee shall not be accepted.

§ 3106.4 Forms.

§ 3106.4-1 Record title and operating rights.

Three originally executed copies of assignments of record title or operating rights shall be filed with the proper BLM office on a form approved by the Director or reproductions thereof. A separate instrument of assignment, in triplicate, shall be filed for each lease out of which an assignment is made. One request for approval shall suffice in those instances where several assignments to an assignee(s) have been submitted at the same time by a qualified applicant(s).

§ 3106.4-2 Royalty interest and production payments.

(a) If any overriding royalty interest or payment out of production is created or reserved under the assignment which is not shown in the instrument of transfer, a statement describing the interest shall accompany the assignment when filed.

(b) A single signed copy of assignments of a payment out of production or overriding royalty interest for each lease shall be filed with the proper BLM office. No official form is required. The assignment shall include the assignee's signed statement as to his/her qualifications under subpart 3102 of this title and the assignee's statement that all overriding royalty interests created are subject to the suspension provision in § 3103.3-3 of this title.

§ 3106.5 Description of lands.

Each instrument of assignment or transfer shall describe the lands involved in the same manner as the lands are described in the lease or in the manner required by § 3111.2 of this title.

§ 3106.6 Bonds.

§ 3106.6-1 Lessee's general lease bond.

Where a general lease or drilling bond is maintained by the lessee in connection with a particular lease, the assignee of a record title interest in such lease shall furnish a proper bond or consent of the surety under the existing bond to become co-principal on such bond if the assignor's bond does not expressly contain such consent.

§ 3106.6-2 Operator's bond.

Where operating rights are assigned and coverage was provided under an operator's bond, the assignee/operator shall furnish an appropriate replacement bond.

§ 3106.6-3 Statewide/nationwide bond.

If the assignee is maintaining a statewide or nationwide bond, no individual lease bond shall be required, but the amount of the bond may be increased to an amount determined by the authorized officer.

§ 3106.7 Approval of assignment.

§ 3106.7-1 Failure to qualify.

No assignment shall be approved if the assignee or any other parties in interest are not qualified to hold the assigned interest, or if the bond, should one be required, is insufficient.

§ 3106.7-2 Continuing responsibility.

Until the assignment is approved, the assignor and surety shall continue to be responsible for the performance of all obligations under the lease. If the assignment is not approved, their obligations to the United States shall continue as though no such assignment had been filed for approval. After approval, the assignee and surety shall be responsible for the performance of all lease obligations notwithstanding any terms in the assignment to the contrary.

§ 3106.7-3 Lease account status.

An assignment of an interest in a producing lease shall not be approved unless the lease account is in good standing.

§ 3106.7-4 Effective date of assignment.

The signature of the authorized officer on the official form shall constitute approval of the assignment, which shall take effect as of the first day of the lease month following the date of filing in the proper BLM office of all documents and statements required by this subpart and an appropriate bond, if one is required.

§ 3106.7-5 Effect of assignment.

An assignment of record title to 100 percent of a portion of the lease segregates the assigned portion and the retained portion into separate leases. Each resulting lease retains the anniversary date and the terms and conditions of the original lease. An assignment of an undivided record title interest or an operating right shall not segregate the assigned and retained portions into separate leases.

§ 3106.8 Other types of transfer.

§ 3106.8-1 Heirs and devisees.

(a) If an offeror, applicant or assignee dies, his/her rights shall be transferred to the heirs, devisees, executor or administrator of the estate, as appropriate, upon the filing of a statement that all parties are qualified to hold a lease in accordance with

subpart 3102 of this title. No filing fee is required.

(b) Any ownership or interest otherwise forbidden by the regulations in this group which may be acquired by descent, will, judgment or decree may be held for not more than 2 years after its acquisition.

§ 3106.8–2 Change of name.

A change of name of a lessee shall be reported to the proper BLM office. No filing fee is required. The notice of name change shall be submitted in writing and be accompanied by a list of the serial numbers of the leases affected by the name change. If bonds have been furnished, change of name may be made by a rider to the original bond or by a replacement bond.

§ 3106.8–3 Corporate merger.

Where a corporate merger affects leases situated in a State where the transfer of property of the dissolving corporation to the surviving corporation is accomplished by operation of law, no assignment of any affected lease interest is required. A notification of the merger shall be furnished with a list, by serial number, of all lease interests affected.

Subpart 3107—Continuation, Extension or Renewal

§ 3107.1 Extension by drilling.

Any lease on which actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at the end of the primary term or any lease which is part of an approved cooperative or unit plan of development or operation upon which such drilling takes place, shall be extended for 2 years subject to the rental being timely paid as required by § 3103.2 of this title, and subject to the provisions of § 3105.2–3 of this title or 30 CFR 226.12, if applicable. Actual drilling operations shall be conducted in the manner in which someone seriously looking for oil or gas could be expected to proceed in that particular area, given existing knowledge or geologic and other pertinent facts.

§ 3107.2 Production.

§ 3107.2–1 Continuation by production.

A lease shall be extended so long as oil or gas is being produced in paying quantities.

§ 3107.2–2 Cessation of production.

A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

§ 3107.2–3 Nonproduction from leases capable of production.

No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice to do so by certified mail from the authorized officer. Such production shall be continued unless and until suspension of production is granted by the authorized officer.

§ 3107.3 Extension for terms of cooperative or unit plan.

§ 3107.3–1 Leases committed to plan.

Any lease or portion of a lease, except as described in § 3107.3–3 of this title, committed to a cooperative or unit plan that contains a general provision for allocation of oil or gas shall continue in effect so long as the lease or portion thereof remains subject to the plan: *Provided*, That there is production of oil or gas in paying quantities under the plan prior to the expiration date of such lease.

§ 3107.3–2 Segregation of leases committed in part.

Any lease committed after July 29, 1954, to any cooperative or unit plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan, the other lands not committed to the plan. The segregated lease covering the nonunitized portion of the lands, shall continue in force and effect for the term of the lease but for not less than 2 years from the date of segregation.

§ 3107.3–3 20-year lease or any renewal thereof.

Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

§ 3107.4 Extension by elimination.

Any lease eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the Act and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease or for 2 years after its elimination from the plan or agreement or after the termination of the plan or agreement, whichever is longer, and for so long thereafter as oil or gas is produced in paying quantities.

§ 3107.5 Extension of leases segregated by assignment.

§ 3107.5–1 Extension after discovery on other segregated portions.

Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for 2 years after the date of first discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

§ 3107.5–2 Undeveloped parts of leases in their extended term.

Undeveloped parts of leases retained or assigned out of leases which are in their extended term shall continue in effect for 2 years after the effective date of assignment, provided the parent lease was issued prior to September 2, 1960.

§ 3107.5–3 Undeveloped parts of producing leases.

Undeveloped parts of leases retained or assigned out of leases which are extended by production, actual or suspended, or the payment of compensatory royalty shall continue in effect for 2 years after the effective date of assignment and for so long thereafter as oil or gas is produced in paying quantities.

§ 3107.6 Extension of reinstated leases.

Where a reinstatement of a terminated lease is granted under § 3108.2 of this title and the authorized officer finds that the reinstatement will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of such lease for a period sufficient to give the lessee such an opportunity. Any extension shall be subject to the following conditions:

(a) No extension shall exceed a period equivalent to the time (1) beginning when the lessee knew or should have known of the termination and (2) ending on the date on which the authorized officer grants such petition.

(b) No extension shall exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination.

(c) When the reinstatement occurs after the expiration of the term or extension thereof, the lease may be extended from the date the authorized officer grants the petition.

§ 3107.7 Exchange leases—20-year term.

Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease shall be issued for a primary term of 5 years. An application to exchange a lease for a new lease shall be filed, in triplicate, by the lessee at the proper BLM office, shall show full compliance by the applicant with the terms of the lease and applicable regulations and shall be accompanied by a nonrefundable filing fee of $75.

§ 3107.8 Renewal leases.

§ 3107.8-1 Requirements.

(a) Twenty year leases and renewals thereof may be renewed for successive terms of 10 years. Any application for renewal of a lease shall be made by the lessee and may be joined in or consented to by the operator of record. The application shall show whether all moneys due the United States have been paid and whether operations under the lease have been conducted in accordance with the applicable regulations.

(b) The applicant or his/her operator shall furnish, in triplicate, with the application for renewal, copies of all agreements not theretofore filed providing for overriding royalties or other payments out of production from the lease which will be in existence as of the date of its expiration.

§ 3107.8-2 Application.

An application to renew shall be filed, in triplicate, in the proper BLM office at least 90 days, but not more than 6 months, prior to the expiration of its term and shall be accompanied by a nonrefundable filing fee of $75.

§ 3107.8-3 Approval.

(a) Copies of the renewal lease, in triplicate, dated the first day of the month following the month in which the original lease terminated, shall be forwarded to the lessee for execution. If, upon receipt of the executed lease forms and an appropriate satisfactory lease bond, the lease is executed by the authorized officer, 1 copy of the lease shall be delivered to the lessee.

(b) If overriding royalties and payments out of production in excess of 5 percent of gross production constitute a burden to lease operations that will retard, or impair, or cause premature abandonment, the lease application shall be suspended until overriding royalties and payments out of production are reduced to not more then 5 percent of the value of the production. If the holders of outstanding overriding royalty or other interests payable out of production, the operator and the lessee are unable to enter into a mutually fair and equitable agreement, any of the parties may apply for a hearing at which all interested parties may be heard and written statements presented. Thereupon, a final decision will be rendered by the Department, outlining the conditions acceptable to it as a basis for a fair and reasonable adjustment of the excessive overriding royalties and other payments out of production and an opportunity shall be afforded within a fixed period of time to submit proof that such adjustment has been effected. Upon failure to submit such proof within the time so fixed, the application for renewal shall be denied.

§ 3107.9 Other types.

§ 3107.9-1 Payment of compensatory royalty.

The payment of compensatory royalty shall extend the term of any lease for the period during which such compensatory royalty is paid and for a period of 1 year from the discontinuance of such payments.

§ 3107.9-2 Subsurface storage of oil and gas.

See § 3105.5-4 of this title.

Subpart 3108—Relinquishments, Termination, Cancellation

§ 3108.1 Relinquishments.

A lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in the proper BLM office. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and surety to make payments of all accrued rentals and royalties and to place all wells on the lands to be relinquished in condition for suspension or abandonment in accordance with the regulations and the terms of the lease.

§ 3108.2 Termination by operation of law.

§ 3108.2-1 Automatic termination and reinstatement.

(a) Except as provided in paragraph (b) of this section, any lease on which there is no well capable of producing oil or gas in paying quantities, shall automatically terminate by operation of law (30 U.S.C. 188) if the lessee fails to pay the rental at the proper BLM office on or before the anniversary date of such lease. If the proper BLM office is closed on the anniversary date, payment received on the next day the office is open to the public shall be deemed timely filed. A remittance which is postmarked by the U.S. Postal Service, common carrier or its equivalent (not including private postal meters) on or before the lease anniversary date and is received in the proper BLM office no later than 20 days after such anniversary date shall be considered as timely filed.

(b) If the rental payment due under a lease is paid on or before its anniversary date but the amount of the payment is deficient and the deficiency is nominal as defined in this section, or the amount of payment made was determined in accordance with the rental or acreage figure stated in a bill or decision rendered by the authorized officer and such figure is found to be in error resulting in a deficiency, such lease shall not have automatically terminated unless the lessee fails to pay the deficiency within the period prescribed in the Notice of Deficiency provided for in this section. A deficiency shall be considered nominal if it is not more than $100 or more than 5 percent of the total payment due, whichever is less. The authorized officer shall send a Notice of Deficiency to the lessee on a form approved by the Director. The Notice shall be sent by certified mail, return receipt requested, and shall allow the lessee 15 days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the proper BLM office. If the payment required by the Notice is not paid within the time allowed, the lease shall have terminated by operation of law as of its anniversary date.

(c)(1) Except as hereinafter provided, the authorized officer may reinstate a lease which is terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(i) Such rental was paid or tendered within 20 days after the anniversary date; and

(ii) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and

(iii) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including any back rental which has accrued from the date of the termination of the lease, is filed with the proper BLM office within 15 days after receipt of Notice of Termination of Lease due to late

payment of rental. The Notice of Termination shall be sent only if the rental is actually paid.

(2) The burden of showing that the failure to pay on or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(3) Under no condition shall a terminated lease be reinstated if:

(i) A valid oil and gas lease has been issued prior to the filing of a petition of reinstatement affecting any of the lands covered by that terminated lease; or

(ii) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(4) The authorized officer shall not issue a lease for lands covered by a lease which terminated automatically until 60 days after the date of termination.

§ 3108.3 Cancellation.

(a) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder or the lease, the lease may be cancelled by the Secretary, if the lands covered by the lease are not known to contain valuable deposits of oil or gas. The lease may be cancelled only after notice to the lessee in accordance with section 31 of the act and only if default continues for the period prescribed in that section after service of notice of failure to comply.

(b) Leases shall be subject to cancellation if improperly issued.

(c) Leases for lands known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

§ 3108.4 Bona fide purchasers.

A lease or interest therein shall not be cancelled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers shall be charged with constructive notice are on notice as to all pertinent regulations and all Bureau records pertaining to the lease and the lands covered by the lease. Prompt action shall be taken to dismiss as a party to any proceedings with respect to a violation by a predecessor of any provisions of the act, any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the act. No hearing shall be necessary upon such showing unless prima facie evidence is presented that the purchaser is not a bona fide purchaser. If, during any such proceeding, a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her lease interests, or if such rights are suspended by order of the Secretary pending a decision, payments or rentals and the running of time against the term of the lease involved shall be suspended as of the first day of the month following the filing of the waiver of the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

Subpart 3109—Leasing Under Special Acts

§ 3109.1 Rights-of-way.

§ 3109.1–1 Generally.

The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes either the leasing of oil and gas deposits under railroad and other rights-of-way to the owner of the right-of-way or the entering of a compensatory royalty agreement with adjoining landowners. This authority shall be exercised only with respect to railroad rights-of-way and easements issued pursuant either to the Act of March 3, 1875 (43 U.S.C. 934 et seq.), or pursuant to earlier railroad right-of-way statutes, and with respect to rights-of-way and easements issued pursuant to the Act of March 3, 1891 (43 U.S.C. 946 et seq.). The oil and gas underlying any other right-of-way or easement is included within any oil and gas lease issued pursuant to the Act which covers the lands within the right-of-way, subject to the limitations on use of the surface, if any, set out in the statute under which, or permit by which, the right-of-way or easement was issued, and such oil and gas shall not be leased under the Act of May 21, 1930.

§ 3109.1–2 Application.

No particular form of application for lease of lands in a right-of-way is required. Applications shall be filed in the proper BLM office. Such applications shall be filed by the owner of the right-of-way or by his/her assignee and be accompanied by a nonrefundable filing fee of $75, and if filed by an assignee, by a duly executed assignment of the right to lease. The application shall detail the facts as to the ownership of the right-of-way, and of the assignment if the application if filed by an assignee; the development of oil and gas in adjacent or nearby lands, the location and depth of the wells, the production and the probability of drainage of the deposits in the right-of-way. A description by metes and bounds of the right-of-way is not required but each legal subdivision through which the portion of the right-of-way desired to be leased extends shall be described.

§ 3109.1–3 Notice.

After the Bureau of Land Management has determined that a lease of a right-of-way or any portion thereof is consistent with the public interest, either upon consideration of an application for lease or on its own motion, the authorized officer shall serve notice on the owner or lessee of the oil and gas rights of the adjoining lands. The adjoining land owner or lessee shall be allowed a reasonable time, as provided in the notice, within which to submit a bid for the amount or percent of compensatory royalty, the owner or lessee shall pay for the extraction of the oil and gas underlying the right-of-way through wells on such adjoining lands. The owner of the right-of-way shall be given the same time period to submit a bid for the lease.

§ 3109.1–4 Award of lease or compensatory royalty agreement.

Award of lease to the owner of the right-of-way, or a contract for the payment of compensatory royalty by the owner or lessee of the adjoining lands shall be made to the bidder whose offer is determined by the authorized officer to be to the best advantage of the United States, considering the amount of royalty to be received and the better development under the respective means of production and operation.

§ 3109.1–5 Compensatory royalty agreement or lease.

(a) The lease or compensatory royalty agreement shall be on a form approved by the Director.

(b) The royalty to be charged shall be fixed by the Bureau of Land Mangement in accordance with the provisions of § 3103.3 of this title, but shall not be less than 12½ percent.

(c) The term of the lease shall be for a period of not more than 20 years.

§ 3109.2 National Park Service areas.

(a) Oil and gas leasing in National Park Service areas shall be governed by 43 CFR Group 3100 and all operations conducted on a lease or permit in such areas shall be governed by 30 CFR Parts 221 and 226.

(b) Any lease or permit respecting minerals in National Park Service areas shall be issued or renewed only with the consent of the Regional Director, National Park Service. Such consent shall only be granted upon a determination by the Regional Director that the activity permitted under the lease or permit will not have significant

adverse effect upon the resources or administration of the area pursuant to the authorizing legislation of the area. Any lease or permit issued shall be subject to such conditions as may be prescribed by the Regional Director to protect the surface and significant resources of the area, to preserve their use for public recreation, and to the condition that site specific approval of any activity on the lease will only be given upon concurrence by the Regional Director. All lease applications received for reclamation withdrawn lands shall also be submitted to the Bureau of Reclamation for review.

(c) The areas subject to the regulations in this part are those areas of land and water which are shown on the following maps on file and available for public inspection in the office of the Director of the National Park Service and in the Superintendent's Office of each area. The boundaries of these areas may be revised by the Secretary as authorized in the Acts.

(1) Lake Mead National Recreation Area—The map identified as "boundary map, 8360–80013A, revised December 1979."

(2) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—The map identified as "Proposed Whiskeytown-Shasta-Trinity National Recreation Area," numbered BOR–WST 1004, dated July 1963.

(3) Ross Lake and Lake Chelan National Recreation Areas—The map identified as "Proposed Management Units, North Cascades, Washington," numbered NP–CAS–7002, dated October 1967.

(4) Glen Canyon National Recreation Area—the map identified as "boundary map, Glen Canyon National Recreation Area," numbered GLC–91,006, dated August 1972.

(d) The following excepted areas shall not be open to mineral leasing:

(1) *Lake Mead National Recreation Area.* (i) All waters of Lakes Mead and Mohave and all lands within 300 feet of those lakes measured horizontally from the shoreline at maximum surface elevation;

(ii) All lands within the area of supervision of the Bureau of Reclamation around Hoover and Davis Dams and all lands within any developed and/or concentrated public use area or other area of outstanding recreational signficance as designated by the Superintendent on the map (NRA–L.M. 2291A, dated July 1966) of Lake Mead National Recreation Area which is available for inspection in the Office of the Superintendent.

(2) *Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area.* (i) All waters of Whiskeytown Lake and all lands within 1 mile of that lake measured from the shoreline at maximum surface elevation;

(ii) All lands classified as high density recreation, general outdoor recreation, outstanding natural and historic, as shown on the map numbered 611–20,004B, dated April 1979, entitled "Land Classification, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area." This map is available for public inspection in the Office of the Superintendent;

(iii) All lands within section 34 of Township 33 north, Range 7 west, Mt. Diablo Meridian.

(3) *Ross Lake and Lake Chelan National Recreation Areas.* (i) All of Lake Chelan National Recreation Area;

(ii) All lands within ½ mile of Gorge, Diablo and Ross Lakes measured from the shoreline at maximum surface elevation;

(iii) All lands proposed for or designated as wilderness;

(iv) All lands within ½ mile of State Highway 20;

(v) Pyramid Lake Research Natural Area and all lands within ½ mile of its boundaries.

(4) *Glen Canyon National Recreation Area.* Those areas closed to mineral disposition within the natural zone, development zone, cultural zone and portions of the recreation and resource utilization zone as shown on the map numbered 80,022A, dated March 1980, entitled "Mineral Management Plan—Glen Canyon National Recreation Area." This map is available for public inspection in the Office of the Superintendent and the office of the State Directors, Bureau of Land Management, Arizona and Utah.

§ 3109.3 Wilderness lands.

All laws pertaining to mineral leasing and the regulations of this chapter extend to lands subject to the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*) until midnight December 31, 1983, unless otherwise provided by law. After that date, the wilderness areas are withdrawn from leasing, subject to valid existing rights, under section 4(d)(3) of the Wilderness Act.

§ 3109.4 Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

Section 6 of the Act of November 8, 1965 (Pub. L. 89–336), authorizes the Secretary to permit the removal of oil and gas from lands within the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area in accordance with the act or the Mineral Leasing Act for Acquired Lands. Subject to the determination by the Secretary of Agriculture that removal will not have significant adverse effects on the purposes of the Central Valley project or the administration of the recreation area.

2. Part 3110 is revised to read as follows:

PART 3110—NONCOMPETITIVE LEASES

Subpart 3110—Noncompetitive Leases; General

Subpart 3111—Over-the-Counter Offers

Subpart 3112—Simultaneous Filings

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation

Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).

Subpart 3110—Noncompetitive Leases, General

§ 3110.1 Lease terms.

§ 3110.1-1 Duration of lease.

All noncompetitive leases shall be for a primary term of 10 years.

§ 3110.1-2 Dating of leases.

All noncompetitive leases shall be considered issued when signed by the authorized officer. Leases shall be effective as of the first day of the month following the date the leases are issued except that where prior written request is made, the authorized officer may make a lease effective the first of the month within which it is issued.

§ 3110.1-3 Lease offer size.

(a) Public domain lease offers shall not be made for less than 640 acres or 1 full section where the lands have been surveyed under the rectangular survey system or are within an approved protracted survey, except where the offer or parcel includes all available lands within a section and there are no contiguous lands available for lease.

(b) A parcel or an offer to lease public domain or acquired lands may not include more than 10,240 acres. The lands in an offer or parcel shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions. A parcel or an offer to lease acquired lands may exceed the 6 mile square limit if:

(1) The lands are not surveyed under the rectangular survey system of public land surveys and are not within the area of the public land surveys; and

(2) The tract desired is described by the acquisition tract number assigned by the acquiring agency and less than 50 percent of the tract lies outside the 6 mile square area.

(c) If an offer exceeds the 10,240 acre maximum by not more than 160 acres, the offeror shall be granted 30 days from notice of the excess to withdraw the excess acreage from the offer, failing which, the offer shall be rejected and priority shall be lost.

§ 3110.2 Withdrawal of offer or application.

An offer made under subpart 3111 of this title may be withdrawn in whole or in part by the offeror. Such withdrawal may be made only if the withdrawal is received by the proper BLM office before the lease, and amendment of the lease or a separate lease, whichever covers the lands described in the withdrawal, has been signed on behalf of the United States. If a public domain offer is partially withdrawn, the lands retained in the offer shall comply with § 3110.1-3(a) of this title. An application or offer made under subpart 3112 of this title shall not be withdrawn.

§ 3110.3 Action on offer.

(a) If, prior to the time a noncompetitive lease is issued, all or part of the lands in the offer are found to be within a known geological structure of a producing oil or gas field or a favorable petroleum geological province in Alaska, the offer shall be rejected in whole or in part as to such lands, as appropriate.

(b) No lease shall be issued before final action has been taken on any prior offer to lease the lands or any extension of, or petition for reinstatement of, an existing or former lease on the lands. If a lease is issued before final action, it shall be cancelled, if the prior offeror is qualified to receive a lease or the petitioner is entitled to reinstatement of a former lease.

(c) The authorized officer shall not issue a lease for lands covered by a lease which terminated automatically until 60 days after the date of termination.

Subpart 3111—Over-the-Counter Offers

§ 3111.1 Requirements.

§ 3111.1-1 General.

(a) An over-the-counter noncompetitive offer to lease shall be made on a current form approved by the Director, or on unofficial copies of that form in current use. Copies shall be exact reproductions on 1 page of both sides of the official approved form without additions, omissions or other changes or advertising. The original copy of each offer shall be filled in by typewriter or printed plainly in ink, manually signed in ink and dated by the offeror or the offeror's duly authorized agent or attorney-in-fact, and shall be accompanied by a nonrefundable filing fee of $75 and the first year's rental. The original and 4 copies of each offer to lease shall be filed in the proper BLM office. Where remittances for over-the-counter offers are returned for insufficient funds, the offer shall not obtain priority of filing until the date the remittance is properly made.

(b) Priority of an offer received over-the-counter shall be determined as of the time and date the offer is filed in the proper BLM office. Offers to lease which are received in the same mail or over-the-counter at the same time, or during the period established by an opening order or similar notice shall be considered as having been filed simultaneously. Priority of the offers to the extent of the conflicts between them shall be determined by drawing in accordance with § 1821.2-3 of this title.

(c) No offer may include both public domain and acquired lands.

(d) Compliance with subpart 3102 shall be required.

(e) The United States shall indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease, by the signature of the authorized officer on the lease form. A signed copy of the lease shall be mailed to the offeror.

(f) Except as otherwise specifically provided in the regulations in this group, an offer which is not filed in accordance with the regulations in this part shall be rejected. An offer filed on a lease form not currently in use shall be acceptable, unless such form has been declared obsolete by the Director prior to the filing, on the condition that the offeror is bound by the terms and conditions of the lease form currently in use.

(g) All offers for leases should name the United States agency from which consent to the issuance of a lease shall be obtained, or the agency that may have title records covering the ownership for the mineral interest involved, and identify the project, if any, of which the lands covered by the offer are a part.

§ 3111.2 Description of lands in offer.

§ 3111.2-1 Public domain.

(a) If the lands have been surveyed under the public land rectangular system, each offer shall describe the lands by legal subdivision, section, township, range and meridian.

(b) If the lands have not been surveyed under the public land rectangular system, each offer shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys.

(c) When protracted surveys have been approved and the effective date thereof published in the **Federal Register**, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands in the same manner as

provided in paragraph (a) of this section for officially surveyed lands.

(d)(1) Where offers are pending for unsurveyed lands which are subsequently surveyed or protracted prior to the lease issuance, the description in the lease shall be conformed to the subdivisions of the approved protracted survey or the public land survey, whichever is appropriate.

(2) The description of lands in an existing lease shall be conformed to a subsequent resurvey or amended protraction survey, whichever is appropriate.

§ 3111.2-2 Acquired lands.

(a) If the lands have been surveyed under the rectangular system of public land surveys, the lands shall be described by legal subdivision, section, township, range and meridian. Where the description cannot be conformed to the public land surveys, any boundaries which do not so conform shall be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest existing official survey corner. If not so surveyed but within the area of the public land surveys, the lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected with a reasonably nearby corner of these surveys by courses and distances.

(b) If the lands have not been surveyed under the rectangular system of public land surveys, they shall be described as in the deed or other document by which the United States acquired title to the lands or minerals. If the desired lands constitute less than the entire tract acquired by the United States, it shall be described by courses and distances between successive angle points on its boundary tying by course and distance into the description in the deed or other document by which the United States acquired title to the lands.

(c) In those instances where the acquiring agency has assigned an acquisition number to the tract applied for, a description by such tract number shall be required in addition to the description otherwise required by paragraph (a) and in lieu of the description otherwise required by paragraph (b) of this section.

(d) Each offer submitted under paragraphs (b) and (c) of this section shall be accompanied by 5 copies of a map upon which the desired lands are clearly marked showing their location with respect to the administrative unit or project of which they are a part.

§ 3111.2-3 Accreted lands.

Where an offer includes any accreted lands, the accreted lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the tract to which the accretions appertain.

§ 3111.2-4 Conflicting descriptions.

If there is any variation in the land description among the required copies of the official forms, the copy showing the date and time of receipt in the proper BLM office shall control.

§ 3111.3 Future interest offers.

§ 3111.3-1 Availability.

(a) A noncompetitive lease for future interest in lands not known to contain mineral deposits may be issued if in the public interest.

(b) A noncompetitive future interest lease shall be issued only to an offeror who owns all or substantially all of the present operating rights in the lands, either as an operator holding such rights, or as mineral fee owner, as lessee or another party in interest.

(c) An offer made on the current form approved by the Director for a future interest lease may be filed less than 1 year prior to the date of vesting in the United States of the present interest in the minerals. Upon the vesting in the United States of the present possessory interest in the minerals, all such offers for future interest leases pending at the time shall be considered for lease, retaining priority for consideration, as of the original date of filing; and thereafter only offers for present interest shall be considered; or at the Director's discretion, such offers may be included as a simultaneous filing for such lands under subpart 3112 of this title.

§ 3111.3-2 Form of application.

There is no required form for an offer to lease a future interest except as provided in § 3111.3-1 of this title. The offer shall, to the extent applicable, conform to and include the terms of the noncompetitive lease forms currently in use and shall also be accompanied by a certified abstract of title containing record evidence of the creation of, and offeror's right to, the claimed mineral interest. If the offeror aquired the operating rights under a lease or contract, the offer shall also be accompanied by a copy of such lease or contract. In lieu of an abstract, a certification of title may be furnished provided that the State in which the lands are located authorizes abstracting and title companies to certify as to title to lands. If the application is submitted by any other party in interest, the applicant shall set forth on the lease application or on a separate accompanying sheet, the names of all other parties who own or hold any interest in the present operating rights and/or interest in the application, offer or lease, if issued as mineral fee owner, as lessee or operator holding such rights. A statement signed by both the applicant and the other parties in interest, setting forth both the nature of any oral understanding between them, and a copy of any written agreement between them shall be filed with the proper BLM office prior to issuance of the lease offer. Such statement and/or agreement shall include or be accompanied by statement signed by all parties in interest setting forth the nature and extent of their respective interest and certifying that they qualify as to age and citizenship requirements and are in compliance with the acreage limitations and will furnish further documentation upon request. A future interest offer may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

§ 3111.3-3 Effective date of lease.

Future interest leases shall become effective on the date when the United States becomes vested with the mineral rights as stated in the lease. Where the effective dates of the vesting of the United States' title to the minerals are different for different tracts, separate leases covering each of the different tracts shall be issued.

§ 3111.3-4 Supplemental agreement.

(a) As part of the consideration for the issuance of a future interest lease and as supplemental thereto, the offeror shall execute, in triplicate, an agreement for approval by the Director. The agreement shall provide for the payment of annual rental in advance at the rate of $1. The agreement shall be effective as of the date the lease issues and shall govern the relationship of the offeror and the United States between its effective date and the date when the lease becomes effective. Where the United States owns both a fractional interest and fractional future interest in the minerals in the same tract, the supplemental agreement shall cover only the fractional future interest in that tract. The lease, when issued, shall cover both the present and future interests in the lands and shall be effective for the present interest held by

the United States as of the date on which the lease issues.

(b) The agreement shall provide that the agreement rental shall be $2 per acre per year for any lands determined to be within a known geologic structure, or a favorable petroleum geological province in Alaska.

(c) The agreement shall provide that if the lands covered by the lease become producing, the lessee shall pay minimum royalty under the agreement of not less than $2 per acre per year, at the particular rate that is applicable as described below. When the interval from the date that production is obtained to the date when title shall vest in the United States is:

Not more than 4 years 10 percent
From 4 years to not more than 8 years 8 percent
More than 8 years 6 percent

(d) Upon vesting of the rights to the lands in the United States, the royalty rate which shall attach to the lease shall be 12½ percent for those lands which are not within a known geological structure or a producing oil or gas field or a favorable petroleum geological province in Alaska, and as set forth in § 3103.3–1(a)(2) of this title, for those lands which are within such areas.

§ 3111.3–5 Approval.

Leases for future interest shall be issued on a form approved by the Director. The lease and supplemental agreement shall be sent to the offeror for signature and returned to the proper BLM office for signature by the authorized officer.

Subpart 3112—Simultaneous Filing

§ 3112.0–5 Definitions.

As used in this subpart, the term "person or entity in the business of providing assistance to the participants in the Federal simultaneous oil and gas leasing program" means those enterprises, commonly known as filing services, which sign, formulate, prepare or otherwise complete or file applications for oil and gas leases for consideration. All other services such as general secretarial assistance or general geologic advice whether or not it is specifically related to Federal lease parcels or leasing, are excluded from this definition.

§ 3112.1 Parcels.

§ 3112.1–1 Availability of lands.

(a) Except as provided in paragraph (b) of this section and § 3120.1 of this title, all lands which are not within a known geological structure of a producing oil or gas field, or a favorable petroleum geological province in Alaska, and were covered by Federal oil and gas leases which have been cancelled, terminated, relinquished or expired are subject to leasing only under this subpart. The Director may designate other lands which are not within a known geological structure of a producing oil or gas field to be leased in accordance with this subpart.

(b) Lands in Alaska which are not included in a pending noncompetitive lease offer or simultaneous oil or gas application under this subpart and which are available for posting for simultaneous oil and gas leasing on the effective date of this rulemaking shall be subject to leasing under the provisions of subpart 3111 of this title when such lands become available for leasing.

§ 3112.1–2 Parcel list.

The lands available for leasing shall be described in leasing units identified by parcel numbers. The lands shall also be described by subdivision, section, township, range, meridian and acreage if the lands are surveyed or officially protracted, or if unsurveyed, by metes and bounds, or by acquisition tract number. The list shall include a statement as to, and a copy of, stipulations applicable to each parcel. The list shall also include a notice stating that the lands listed are subject to the filing of lease applications from the time of posting until the close of business on the 15th working day of that month.

§ 3112.1–3 Posting of parcel list notice.

At the start of business on the first working day of January, March, May, July, September and November, a list of the lands for which applications shall be received shall be posted in the proper BLM office. Copies of the posted notice may be purchased from the proper BLM office.

§ 3112.2 How to file an application.

§ 3112.2–1 Simultaneous oil and gas lease applications.

(a) An application to lease under this subpart consists of a simultaneous oil and gas lease application on the form approved by the Director, completed, signed and filed pursuant to the instructions in the application form and to the regulations in this subpart. The first applicant for a lease, as determined under the regulations in this subpart, who is qualified to hold a lease under the Act and the regulations in this title shall have priority of opportunity to complete an offer to lease as described in § 3112.6–1 of this title.

(b) The application shall include the applicant's name and personal or business address as well as the name(s) of all parties in interests to the lease application. All communications relating to leasing shall be sent to that address and it shall constitute the applicant's address of record for the purposes provided in § 3112.6–1 of this title. The address of any other person or entity which is in the business of providing assistance to those participating in the simultaneous oil and gas leasing system shall not be used.

(c) The application shall be signed and dated at the time of signing. If signed by anyone other than the applicant, the application shall show the relationship of the signatory to the applicant. The date shall reflect that the application was signed within the filing period.

(d) The parcel applied for shall be identified by the proper parcel number, including State prefix, as shown on the posted notice.

(e) Applicants shall enter their social security number on the lease application. Corporations and other entities shall use their Internal Revenue Service number or taxpayer number. If an applicant has no social security number or does not wish to disclose such a number, the Bureau shall, upon application, assign an applicant number which shall be used for all future filings. Applicants shall use the same number for all filings.

(f) No person or entity shall hold, own or control an interest in more than 1 application for a particular parcel.

(g) A separate, properly completed, dated and signed lease application for lands posted in each State office which posts a list of available parcels shall be filed within the filing period in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, at the address shown on the posted list. An application shall be unacceptable if it has not been completed: (1) In accordance with the instructions on the application form in a manner that permits automated processing; and (2) in accordance with the other requirement of subpart 3112 of this title.

§ 3112.2–2 Filing fees.

Each filing shall be accompanied by a nonrefundable filing fee of $75 for each parcel. Failure to submit sufficient fees to cover all filings in a group shall cause the entire group of applications submitted with that remittance to be rejected. An uncollectible remittance covering the filing fee(s) shall result in disqualifying all of the applicants from all of the parcels covered by the applications for which the remittance is uncollectable. Any uncollectable

remittance shall constitute a debt due to the United States which shall be paid before the applicant shall be permitted to participate in any future selection.

§ 3112.2–3 Qualifications.

Compliance with subpart 3102 of this title is required. The applicant shall set forth on the lease application, or on a separate accompanying sheet, the names of all other parties who hold an interest (as defined in § 3000.0–5(k) of this title) in the application, or the lease, if issued. Submission of a qualifications file number alone shall not meet this requirement, except for offers filed under § 3112.6–1(b)(iii) of this title.

§ 3112.2–4 Filing assistance.

Any applicant receiving the assistance of any person or entity which is in the business of providing assistance to participants in the Federal simultaneous oil and gas leasing program shall indicate on the lease application the name of the party or filing service that provided assistance.

§ 3112.3 Unacceptable and rejected applications.

(a) Any Part B application form which, in the opinion of the authorized officer:

(1) Is not timely filed in the Wyoming State Office; or

(2) Is received in an incomplete state or prepared in an improper manner; or

(3) Is received in a condition that prevents its automated processing; or

(4) Is received with an insufficient fee:

shall be returned to the remitter as unacceptable.

(b) For each Part B application form returned as unacceptable, of the fees remitted, a $75 processing fee shall be retained and the balance of fees, if any, shall be returned to the remitter.

(c) A Part B application form received without any fee or accompanied by an unacceptable remittance shall be considered unacceptable and shall not be returned.

(d) The application fee for a parcel removed from the parcel list by the Bureau shall be returned to the remitter.

(e) An application which is accepted for selection but which does not fully comply with subpart 3112 of this title shall, if selected for priority, be rejected and the filing fee retained.

(f) Failure to reject or to identify a filing as unacceptable prior to selection shall not prevent rejection after selection for the reasons listed in this section or for any reason set forth in §§ 3112.5–1 through 3112.5–3 of this title.

(g) Rejection of an application or the return of an unacceptable application shall be considered a final Departmental action. Any appeal filed as a result of an action under this section shall not delay the issuance of a lease under § 3112.6–1 of this title. The lessee, or successful applicant if the lease has not yet been issued, shall be notified by the Bureau that an appeal or protest has been filed.

(h) In order to appeal a decision of the authorized officer not to accept an application under § 3112.3 of this title, the applicant shall resubmit the returned application, the filing fee and a notice of appeal. The filing fee shall be retained regardless of the outcome of the appeal.

§ 3112.4 First qualified applicant.

§ 3112.4–1 Selection procedure.

(a) One application shall be randomly selected for each numbered parcel. If the application selected is unacceptable or rejected under § 3112.3 of this title, a reselection from the remaining applications shall take place.

(b) The results of the selection process shall be posted in the proper BLM office.

(c) All unsuccessful applicants shall be notified in writing or by return of their applications.

(d) Successful applicants shall be notified in accordance with § 3112.6–1 of this title.

§ 3112.4–2 Reselection process.

If, before lease issuance, it is found that a properly filed application was omitted from the selection process, a new selection shall be held. An omitted application may not be withdrawn by the applicant. The new selection shall consist of the omitted application(s) and the number of blank applications equal to the number of applications which were included in the first selection. The new selection shall be conducted in the same manner as the original selection. If the omitted application is not selected, the result of the original selection shall stand. However, if an omitted application is selected, it shall displace the application selected in the original selection. If an omitted application is discovered after lease issuance, the application shall be returned to the applicant along with the filing fee.

§ 3112.5 Adjudication.

§ 3112.5–1 Rejection of an application.

(a) Any application determined by adjudication as not meeting the requirements of subpart 3112 of this title shall be rejected.

(b) Any agreement, scheme, plan or arrangement entered into prior to selection, which gives any party or parties more than a single opportunity of successfully obtaining a lease or interest therein is prohibited. Any application made in accordance with such agreement, scheme, plan or arrangement shall be rejected: Specifically:

(1) Any agreement, scheme, plan or arrangement which obligates the applicant to transfer any interest in the lease, if issued, to a third party; or which gives the third party a right of first refusal for the lease, if issued; or which obligates the applicant to use the services of the third party when assigning or transferring any interest in the lease, if issued, is prohibited if such agreement, scheme, plan or arrangement exists between the third party and 2 or more applicants for the same parcel or if the third party files for the same parcel as the applicant;

(2) Any agreement, scheme, plan or arrangement between any person or entity in the business of providing assistance to participants in the Federal simultaneous oil and gas leasing program and any potential assignee whereby such person or entity will seek to induce an assignment of any lease is prohibited;

(3) Filings by members of an association, including a partnership, or officers of a corporation, under any agreement, scheme, plan or arrangement whereby the association or corporation has an interest in more than a single filing for a single parcel are prohibited; or

(4) Separate filings by a trustee or guardian in its own behalf and on behalf of 1 or more beneficiaries on the same parcel or, separate filings by a trustee or guardian on behalf of 2 or more beneficiaries on the same parcel or, separate filing by the grantor or person with the power of revocation of a revocable trust and the trust are prohibited.

(c) The application of the first qualified applicant shall be rejected if an offer is not filed in accordance with § 3112.6–1 of this title.

(d) The authorized officer shall reject all filings which are made in accordance with any illegal agreement, scheme, plan or arrangement and shall take other appropriate actions including investigations for prosecution under 18 U.S.C. 1001.

§ 3112.5–2 Rejection of an offer.

(a) An offer shall be rejected if the application upon which it is based should have been properly rejected under §§ 3112.3 and 3112.5–1 of this title.

(b) If, prior to the time a lease is issued, all or part of the lands in the offer are determined to be within a known geological structure of a producing oil or gas field, the offer shall be rejected in whole or in part as may be appropriate and the lease, if issued,

shall include only those lands not within the known geological structure of a producing oil or gas field.

§ 3112.5–3 Cancellation of leases.

In the event a lease has been issued on the basis of an application or offer which properly should have been rejected or, if any interest in any lease is owned or controlled directly or indirectly in violation of any of the provisions of the act or regulations in this title, action shall be taken to cancel the interest or lease unless the rights of a bona fide purchaser, as provided in § 3108.4 of this title, intervene. The United States may take action to cancel regardless of whether information showing the application or offer was rejectable is obtained or was available before or after the lease was issued.

§ 3112.6 Lease issuance.

§ 3112.6–1 Lease offer and payment of the first year's rental.

(a) The lease agreement, consisting of a lease form approved by the Director, and stipulations included on the posted list or later determined to be necessary, shall be forwarded to the selected applicant, if qualified, for signing, together with a request for payment of the first year's rental. Only the personal handwritten signature, in ink, of the prospective lessee, or his/her attorney-in-fact as described in paragraph (b) of this section, shall be accepted. The first year's rental shall be paid only by the applicant personally or his/her attorney-in-fact as described in paragraph (b) of this section. The signed lease agreement and rental payment shall be filed in the proper BLM office within 30 days from the date of receipt of the notice, and shall constitute the applicant's offer to lease.

(b)(1) An attorney-in-fact may sign the lease offer and pay the first year's rental only if:

(i) The power of attorney prohibits the attorney-in-fact from filing offers on behalf of any other participant;

(ii) The power of attorney specifically authorizes the attorney-in-fact to execute on behalf of the participant all offers, statements of interest and of holding and other statements required by the act or the regulations; and

(iii) The power of attorney binds the participant to representations made on his/her behalf by the attorney-in-fact under the power of attorney and waives any and all defenses which may be available to the participant to contest, negate or disaffirm the actions of the attorney-in-fact under such power-of-attorney. (2) An attorney-in-fact signing a lease offer on behalf of the prospective lessee shall file, together with the offer, a copy of his/her power of attorney, or where such power-of-attorney has previously been filed in a proper BLM office, a reference to the serial number of the record in which it has been filed, together with a statement that it is still valid, over the personal handwritten signature, in ink, of the prospective lessee. Evidence of the applicant's physical handicap which precludes an ability to sign may be submitted in lieu of the applicant's signature on the power of attorney.

§ 3112.6–2 Acceptance of lease offer.

The signature of the authorized officer on the lease shall constitute the acceptance of the lease offer and the issuance of the lease by the United States.

§ 3112.6–3 Restriction on transfer.

For restrictions on transfers, see § 3106.1(b) of this title.

§ 3112.7 Availability of unleased simultaneous parcels.

Lands shall be available for leasing under subpart 3111 of this title where, during the filing period under this subpart, no applications are received for any parcel, provided the lands are not determined to be within a known geological structure of a producing oil or gas field. Such lands shall become available for leasing under subpart 3111 of this title on the first day of the month following the posting of the results of the selection in the appropriate State office of the Bureau. Where 1 or more applications are received for a particular parcel and no lease issues as a result of such filing, the lands shall be subject to leasing only in accordance with this subpart.

Part 3120 is revised to read as follows:

PART 3120—COMPETITIVE LEASES

Subpart 3120—Competitive Leases

Sec.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3120—Competitive Leases

§ 3120.1 General.

Lands which shall be leased by competitive bidding under this subpart include:

(a) Lands within any known geological structure of a producing oil or gas field, as determined by the Bureau.

(b) Lands for which authority to lease has been delegated from the General Services Administration.

(c) Lands in Alaska within a favorable petroleum geological province, as determined by the Bureau.

(d) If, in proceeding to cancel a lease, interest in a lease, option to acquire a lease or an interest therein, acquired in violation of any of the provisions of the Act, an underlying lease, interest or option in the lease is cancelled or forfeited to the United States and there are valid interests therein which are not subject to cancellation, forfeiture or compulsory disposition, such underlying lease, interest or option shall be sold to the highest responsible, qualified bidder by competitive bidding in a manner similar to that provided in the offering of leases by competitive bidding subject to all outstanding valid interests therein and valid options pertaining thereto. However, if less than the whole interest in the lease, interest or option is cancelled or forfeited, such partial interest shall likewise be sold by competitive bidding. If no satisfactory offer is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold by such other methods as the authorized officer deems appropriate, but on terms no less favorable to the United States than those of the best competitive bid received. Interest in outstanding lease(s) so sold shall be subject to the terms and conditions of the existing lease(s).

(e) Lands which are otherwise unavailable for leasing but which are subject to drainage (protective leasing).

§ 3120.2 Lease terms.

§ 3120.2–1 Duration of lease.

Competitive leases shall have a primary term of 5 years.

§ 3120.2-2 Dating of lease.

All competitive leases shall be effective as of the first day of the month following the date the leases are signed on behalf of the United States except where prior written request is made, a lease may be made effective on the first of the month within which it is signed.

§ 3120.2-3 Lease size.

(a) Lands outside of Alaska which are within a known geological structure of a producing oil or gas field shall be divided into leasing blocks or tracts in units of not more than 640 acres each, which shall be as nearly compact in form as possible.

(b) Lands in Alaska which are within a favorable petroleum geological province shall be divided into leasing blocks of not more than 2,560 acres, which shall be as compact in form as possible.

(c) If 2 or more blocks are awarded to any bidder, the blocks where the total combined acreage does not exceed the maximum allowable lease size may be included in a single lease if circumstances warrant.

(d) Leases for lands in which the United States owns a future interest shall be subject to the same acreage limitations as set forth in paragraphs (a) and (b) of this section.

(e) Other competitive lease parcels shall be established in reasonable size by the authorized officer.

§ 3120.2-4 Qualifications.

(a) Each bid shall be accompanied by a statement over the signature of the bidder or by anyone authorized to sign on behalf of the bidder certifying compliance with subpart 3102 of this title.

(b) The successful bidder at a sale, by public auction shall, on the day of the sale, deposit with the authorized officer, one-fifth of the amount bid. If the sale is by sealed bid, each bidder shall submit with the bid, one-fifth of the amount bid.

§ 3120.3 Identification of tract.

A request or nomination of a tract(s) for competitive sale shall be submitted in writing to the proper BLM office. The Bureau may also on its own motion post lands for competitive bidding.

§ 3120.4 Notice of lease sale.

§ 3120.4-1 Contents of notice.

The notice of lease sale shall state the time, date and place of the sale including a general description of the lands offered for sale, and information on where the detailed statement of the precise description and terms and conditions of the lease(s), including rental and royalty rates, as well as where bid forms may be obtained and the form in which the bids shall be submitted. Remittances for competitive bids shall be submitted in the form specified in the sale notice.

§ 3120.4-2 Detailed statement.

The detailed statement shall contain information on when and where to submit bids, bidding requirements, payments required, lease terms and stipulations, the description of the leasing units being offered and any other information that may be helpful to the prospective bidder.

§ 3120.4-3 Publication of the notice.

The notice of lease sale shall be published once a week for 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated or in such other publication as the authorized officer may determine. The successful bidder shall, prior to lease issuance, pay his/her proportionate share of the total cost of publication of that notice.

§ 3120.5 Award of lease.

(a) All bids shall be opened at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. Withdrawal of a bid prior to such time shall be permitted. The right to reject any and all bids is reserved.

(b) The lease shall be awarded to the qualified bidder submitting the highest acceptable bid. Copies of the lease on a form approved by the Director shall be sent to the successful bidder who shall within 30 days of receipt of notice, sign and return the lease forms with payment of the balance of the bonus bid, the first year's rental and the publication costs.

§ 3120.6 Rejection of bid.

If the high bid is rejected for failure of the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

§ 3120.7 Consideration of next highest bid.

The Department reserves the right to offer the lease to the next highest bidder if the highest bid is rejected. In no event shall an offer be made to the next highest bidder if the difference between his/her bid and that of the successful bidder is greater than one-fifth of the rejected bid or if the next highest bid is not otherwise acceptable.

§ 3120.8 Future or fractional interest.

§ 3120.8-1 Application.

Applications and requests to have leases offered competitively for future or fractional interests in lands shall, to the extent possible, conform to and include the information requested in §§ 3111.3-2, 3111.2(a) and this subpart. The competitive lease sale for such interests shall be conducted in the same manner as provided under this subpart.

§ 3120.8-2 Supplemental agreement.

(a) The high bidder for a competitive future or fractional interest shall be required to execute a supplemental agreement as provided under § 3111.3-4 of this title except that the annual rental or minimum royalty under the agreement shall be $2 per acre.

(b) The agreement shall provide that if the lands covered by the lease become producing, the lessee shall pay under the agreement a minimum royalty of $2 per acre or fraction thereof per year or the royalty rate specified below, whichever is greater. When the interval from the date that production is obtained to the date when title shall vest in the United States is:

Not more than 4 years	10 percent
From 4 years but less than 8 years	8 percent
More than 8 years	6 percent

(c) Upon the vesting of the rights to the lands in the United States, the royalty shall be as described in § 3103.3-1 of this title.

§ 3120.8-3 Compensatory royalty agreements.

The terms and conditions of compensatory royalty agreements involving acquired lands in which the United States owns a future or fractional interest shall be established on an individual case basis. Such agreements may be considered in lieu of leasing where the interest of the United States in the oil and gas deposit includes both

a present and a future fractional interest in the same tract containing a producing well.

PART 3140—COMBINED HYDROCARBON LEASING

§ 3140.1–4 [Amended]

4. Section 3140.1–4(a) is amended by removing the phrase "§§ 3101.1–5 and 3101.2–4" and replacing it with the phrase "§ 3101.2".

5. Section 3140.1–4(c) is amended by removing the phrase "§ 3103.3–7" and replacing it with the phrase "§ 3103.4–1".

§ 3140.7 [Amended]

6. Section 3140.7 is amended by removing the phrase "§ 3101.4–5" and replacing it with the phrase "§ 3103.4–1" and by removing the phrase "§ 3109.5(e)" and replacing it with the phrase "§ 3109.2(b)".

PART 3150 [REMOVED]

7. Part 3150 is removed in its entirety.

[FR Doc. 83-19906 Filed 7-21-83; 8:45 am]
BILLING CODE 4310-84-M

federal register

Friday
July 22, 1983

Part V

Department of Labor

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rate Methodology; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment on Aliens in Agriculture; Adverse Effect Wage Rate Methodology

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: Pursuant to a recent Order of the United States District Court for the District of Columbia, the Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. The proposed rule would amend the regulations to establish a methodology for setting 1983 agricultural adverse effect wage rates (AEWRs) that is, the minimum wage rates which DOL has determined must be offered and paid by the employers proposing to employ nonimmigrant alien agricultural workers temporarily in the United States. The proposed rule also would revise the regulation dealing with adjustments to agricultural piece rates.

DATE: Written comments on the proposed rule must be received by August 5, 1983. The fall harvest is impending, and there is a need to avoid as much as possible retroactive application of wage rates. A longer comment period, therefore, cannot be set.

ADDRESS: Send written comments to: Mr. Richard C. Gilliland, Director, United States Employment Service, Employment and Training Administration, Room 8000—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Charles I. Carter, Telephone: 202–376–6292.

SUPPLEMENTARY INFORMATION:

Introduction

Pursuant to an Order of the United States District Court for the District of Columbia, the Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. The Order in *NAACP* v. *Donovan*, Civil Action No. 82–2315 (D.D.C. June 28, 1983), required DOL to establish a methodology for setting hourly agricultural adverse effect wage rates (AEWRs) for the 1983 harvest season, and to publish the 1983 AEWRs no later than July 29, 1983.

DOL also is proposing to revise the regulation to reinstitute its earlier interpretation dealing with the approriate adjustment of agricultural piece rates. The court, in its two Orders in *NAACP* v. *Donovan*, found that DOL's interpretation of DOL's own existing regulation on this issue was incorrect. *NAACP* v. *Donovan*, *supra*, and 558 F. Supp. 218 (D.D.C. 1982). The proposed rule would revise the regulation to reinstate and to reflect accurately the agency's original intent in promulgating it.

Temporary Alien Labor Certification Process and Adverse Effect Wage Rates

1. Background

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Immigration and Naturalization Service (INS). 8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c). Pursuant to the requirement that the Attorney General consult with appropriate agencies of the government concerning the importation of nonimmigrant (so-called "H–2") workers, INS has determined that prior to granting or denying such a petition, it first will request DOL to advise INS on the availability of qualified U.S. workers for the jobs offered to the H–2 aliens, and whether the wages and working conditions attached to such a job offer will adversely affect similarly employed U.S. workers. 8 U.S.C 1184(c); CFR 214.2(h)(3)(i).

Pursuant to the INS regulations, ETA has published regulations at 20 CFR Part 655, Subpart C, for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. DOL has determined that similarly employed United States workers had been adversely affected by the importation and employment of nonimmigrant aliens in agricultural employment. It has been determined further that employment of those aliens in a number of States at wages below specially computed adverse effect wage rates (AEWRs) would adversely affect the wages of similarly employed United States workers. 20 CFR 655.202(b)(9) and 655.207.

Since 1968, these special AEWRs had been computed by adjusting the provious year's AEWR for a State by the same percentage change as the annual average wage rates for field and livestock workers, as surveyed by the Untied States Department of Agriculture (USDA). See 41 FR 25018 (June 22, 1976). However, in 1981 USDA substantially reduced its number of surveys and ceased compiling annual average wage rates. Consequently, the methodology established in 1968 for computing AEWRs was no longer adequate. AEWRs for 1981 were able to be published under the then existing methodology, but, due to the diminished USDA data, for 1982 it was necessary to extend the 1981 AEWRs for another year. This action was reported by DOL in the **Federal Register**. 47 FR 37980 (August 27, 1982).

Farmworkers in three States objected to the extension of 1981 AEWRs into 1982, and brought suit in the U.S. District Court for the District of Columbia. The Order in *Bragg* v. *Donovan*, Civil Action No. 82–2361 (D.D.C. August 25, 1982), required DOL to establish a methodology and set 1982 AEWRs for those States. After a full notice and comment period, DOL established by regulation new AEWRs for those three States (Florida sugar cane, Vermont, and Maine), and for West Virginia, the State whose farmworkers were the original plaintiffs in *NAACP* v. *Donovan*, *supra*. See 20 CFR 655.207(b) (1983); 48 FR 235 (January 4, 1983). The methodology set the AEWRs beginning in 1982 by comparing the historic relationship between the more limited post-1980 USDA and the data USDA collected before 1981.

Pursuant to the court's various Orders in the two referenced cases, these AEWRs were to be paid retroactively for work performed in the 1982 harvest season. Had the 1982 AEWR in West Virginia been increased using the same data series as was used for the three States in the *Bragg* case, covered employers in the State would have had to pay retroactively a 17.2% increase in wages for the season. Therefore, in the rule published on January 4, 1983, DOL determined to spread West Virginia's AEWR increase over two years. The 1982 AEWR increase would have been 10%, to prevent economic harm to the small agricultural employers in that State who utilize nonimmigrant alien workers. See 48 FR 235 (January 4, 1983). The AEWR for West Virginia in 1983 was to rise another 7.2% over the 1981 AEWR. The June 28, 1983, *NAACP* v. *Donovan* Order overturned DOL's detemination, and required the agency to increase the AEWR for West Virginia a full 17.2% over the 1981 rate—to $4.24 per hour—and to require that it be paid

retroactively for work in the 1982 harvest.

2. Proposed Rule

The rule set forth below would establish a new methodology for setting the 1983 AEWRs. Rather than depending on data supplied by USDA to determine wage movements, DOL will rely on data received by DOL's Bureau of Labor Statistics (BLS) through the Employment and Wages Program (the "ES–202 Program").

The ES–202 Program is a cooperative activity of BLS and the State employment security (unemployment compensation and job service) agencies. Annual changes in the AEWR for each State would be directly proportional to the changes in average weekly wages for similarly employed workers covered by unemployment insurance (UI) in the State. The AEWR would not be set at the level of average weekly wages in the ES–202 data, but would follow the movement of average weekly wages in that data series.

Since 1978, agricultural labor has been covered broadly under all the States' UI laws. See 26 U.S.C. 3306(a)(2) and (c)(1); and sections 111 and 114 of Pub. L. 94–566. At minimum, employees of agricultural firms employing at least 10 workers in 20 weeks or having a $20,000 quarterly payroll are covered by UI. Some State UI laws have broader coverage of agricultural labor.

As part of their UI programs, the State employment security agencies receive from each UI-covered employer quarterly reports showing: the number of workers on the payroll, total wages, taxable wages, and UI contributions (State UI taxes). The State agencies, in turn, report this information to BLS showing the number of UI-covered establishments, employment during the mid-week of each month, and total wages paid during the quarter. Wages are reported by Standard Industrial Classification (SIC) code, including various categories of agricultural crop producers. It is anticipated that data on agricultural wage movements in SIC Codes Nos. 013, 016, 017, 019, 071, and 072 will be used, since these categories include the employers using the bulk of the imported nonimmigrant alien agricultural labor.

Using these data, it is possible to prepare estimates of average weekly wages by year, providing excellent information on wage trends in agricultural and other industries. Using the data in the ES–202 report, the AEWR wold be adjusted annually by the year-to-year change in the average weekly wages for agriculture (in the above-referenced SIC codes) in the State. As was done when AEWR wage movements were keyed to USDA-surveyed wage movements, the AEWRs six New England States will move as a unit (*i.e.*, by the same percentages), although the AEWRs in some States would differ, due to the variations in the base. New England has a relatively small universe of reporting units, and it is believed that a region-wide movement would more accurately reflect actual wage movements in the region. Similarly, ETA will be treating Maryland, Virginia, and West Virginia as a unit for wage movements, although their AEWRs would differ, due to variations in the AEWR base.

The broad universe coverage, continuity, and currency of the ES–202 program make its data one of the most useful data bases for determining wage movements in all United States industries. Some other uses being made of the data series are described below:

a. The series is used by the Department of Commerce as part of the wage and salary component, to determine gross national product and personal income.

b. The Social Security Administration uses ES–202 data in updating economic assumptions and forecasting trends in the taxable wage base.

c. The data in these reports have been used by BLS to develop a series for the Department of Health and Human Services to adjust Medicare payments to hospitals to reflect changes in labor costs.

d. ETA has used ES–202 wage data to determine allowable wage supplementation for public service employees in the Countercyclical Public Service Employment Program under Title VI of the Comprehensive Employment and Training Act (CETA). Congress endorsed the use of such wage data. See section 609(2) of CETA; 29 U.S.C. 969(2) (1978).

e. State and federal UI agencies use the data for a myriad of uses in administering the cooperative system of federal and State UI laws. The data show the extent of UI coverage, records revenues and disbursements, measures unemployment, allows actuarial studies, and determines maximum UI benefit levels, experience ratings, and areas needing federal assistance. The data also help ensure the solvency of the UI Funds.

f. Public and private research organizations use the ES–202 report as one of their best sources of detailed employment and wage statistics.

The ES–202 reporting system is carefully reviewed by State and Federal labor statisticians. The data are recognized by competent statistical authorities as being valid and form a basis for the BLS *Employment and Earnings* series. The data can be used in a methodology for the AEWR determination that is fair, reasonable, and cost effective.

The ES–202 Program, including its coverage and uses, is described more fully in Chapter 5, "Employment and Wages Covered by Unemployment Insurance," of the *BLS Handbook of Methods*, Vol. 1, BLS Bulletin No. 2134–1 (December 1982). A reproduction of Chapter 5 follows this document as an appendix, but will not appear in the Code of Federal Regulations with the final rule.

Use of the ES–202 report has the additional advantage that the wage survey does not include the wages of nonimmgrant alien workers, who are excluded by statute from unemployment compensation coverage. 26 U.S.C. 3306(c)(1)(B). Further, although UI coverage of agricultural labor is not universal, there is significant coverage in States where the temporary alien agricultural labor certification program operates.

3. 1983 AEWRs

The 1983 AEWRs, in general, would be determined using the 1981 AEWRs as the base. The 1981 AEWRs were the last set using the historically used USDA data series and were the most reliable of the wage rates set this far in the 1981–83 period. The 1983 AEWR, unless higher in the past, would be the State's 1981 AEWR changed by the same percentage as the change in average weekly wages for agricultural crop activities (SIC Codes Nos. 013, 016, 017, 019, 071, and 072) from 1979 to 1981 for the applicable ES–202 reporting area.

If the proposed methodology is used past 1983, the one-year wage movement for the third year previous to the second year previous would be used to set the movement from the prior year's AEWR to the current year's AEWR. Thus, the 1984 AEWR would be set by applying to the 1983 AEWR the percentage change in the applicable ES–202 data for 1981–82.

The applicable ES–202 unit will be the State, except that New England, and the Maryland/Virginia/West Virginia area, will each be treated as a unit for examining movements in average weekly wages.

Absent a future change in the AEWR methodology, the AEWR thereafter would be adjusted annually by the year-to-year change in the applicable ES–202 average weekly agricultural wages. In those States in which the 1981 or 1982 AEWRs, set by interim methodology or

order of the court was higher than that computed by the applicable percentage increase in ES–202 data, the highest of the AEWRs would apply, until such time (if any) as the AEWR computed using the ES–202 data exceeds the prior AEWR.

Under the methodology set forth in the rule below, the 1983 AEWRs would be as set forth in the list below. In West Virginia, the 1982 AEWR was $4.24, as ordered by the court in *NAACP* v. *Donovan*. While the ES–202 based methodology would have resulted in a 1983 AEWR of $4.16 in West Virginia, the prior year's rate of $4.24 will be continued in 1983. The final rule published on January 4, 1983, had announced that the 1983 AEWR for West Virginia would continue to be $4.24. 48 FR 235.

State	1983 AEWR
Arizona	$4.73
Colorado	4.34
Connecticut	4.44
Florida (sugar cane only)	5.96
Florida (except sugar cane)	4.82
Maine	4.56
Maryland	4.37
Massachusetts	4.44
New Hampshire	4.76
New York	3.83
Rhode Island	4.44
Texas	4.67
Vermont	4.69
Virginia	4.38
West Virginia	4.24

4. AEWR Methodologies in the Future

The rulemaking meets the critical need, created by the recent Orders in *NAACP* v. *Donovan* and the impending 1983 harvest season, to set AEWRs for 1983 and does not foreclose a determination by DOL to institute in 1984 or later years other changes in the AEWR regulations.

Piece Rates

Historically, DOL has determined that workers should not be required to increase their level of productivity in order to earn, at minimum, the hourly AEWR. Conversely, if the employer's piece rate for a particular crop activity allowed the average worker to receive earnings at or above the AEWR, that piece rate has been acceptable. Thus, if average hourly earnings for the average worker in the preceding year equalled or exceeded the applicable AEWR, the piece rate for that crop activity did not need to be raised. See 20 CFR 655.207(c). This interpretation of DOL's regulation on piece rates was reflected in its issuances to ETA regional offices and to State job service agencies. See § A.6.a(3) of Attachment 1 to ETA General Administration Letter (GAL) No. 46–81.

In the two *NAACP* v. *Donovan* Orders described above, the court held that DOL's interpretation of its own regulation is invalid and ordered that the piece rates be increased each time the AEWRs increase, based upon the productivity in that crop activity in 1977. The 1977 productivity rate is determined by dividing the 1977 AEWR by the piece rate for that crop activity. The current piece rate would be equal to the current AEWR divided by the 1977 productivity rate.

The result of the court's interpretation would have been to guarantee workers' earnings at levels above that determined by DOL as the adverse effect level. Employers who paid a higher than average piece rate in 1977, and whose workers earned at times far above the adverse effect level, would have been bound to maintain their workers at levels of earnings above the hourly AEWR required by 20 CFR 655.207(b).

While the rule set forth in this document would restore DOL's interpretation of its regulation, as set forth in GAL No. 46–81, described above, the goals of DOL and the plaintiffs' in *NAACP* v. *Donovan* are much the same. Workers should not be required to increase productivity to earn the applicable AEWR. However, the AEWR is meant to be a minimum, not an escalator to maintain earnings (or to set "attractive" wages) above the adverse effect level.

Florida (Other Than Sugar Cane Work)

The proposed rule establishes an AEWR for agricultural employmnent in Florida. A separate AEWR would continue to be set for Florida sugar cane work. Nonimmigrant aliens were admitted in 1982 for lettuce picking in Florida. To avoid the adverse effect which employment of such aliens would have on the wages of similarly employed United States workers, it has been DOL's practice in the past to establish computed AEWRs when there has been employment of such aliens in a State. An unpublished AEWR for Florida (other than sugar cane) has been computed, using USDA data, for many years. The 1981 AEWR computed by that earlier methodology would be the base for Florida, and the 1983 AEWR would be set according to the same ES–202-based methodology set forth in the rule below.

Technical Amendments

Other minor technical amendments, such as establishing the date by which AEWRs annually must be announced and published, are necessitated by the second Order in *NAACP* v. *Donovan*, and are set forth in the rule below.

Discretion in Setting AEWRs

Section 214(c) of the Immigration and Nationality Act gives the Attorney General (and his designee INS) broad discretion in the admission of nonimmigrant aliens to the United States. 8 U.S.C. 1184(c). With respect to determinations under the immigration laws on the availability of United States workers for jobs offered to nonimmigrant alien workers, and the adverse effect those aliens' employment may have on the wages and working conditions of similarly employed United States workers, the Secretary of Labor and DOL have been given broad discretion. See *e.g.*, 8 CFR 214.2(h)(3)(i). This broad discretion, particularly methodologies for setting AEWRs under the immigration laws, has been recognized in the federal appellate and district courts. *Rowland* v. *Marshall*, 650 F. 2d 28 (4th Cir. 1981); *Williams* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000; *Florida Sugar Cane League* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976); and *Limoneira Co.* v. *Wirtz*, 327 F. 2d 499 (9th Cir. 1964), *aff'g* 225 F. Supp. 961 (S.D. Cal. 1963); *See also Elton Orchards, Inc.* v. *Brennan*, 508 F. 2d 493 (1st Cir. 1974); and *Flecha* v. *Quiros*, 567 F. 2d 1154 (1st Cir. 1977). These decisions acknowledge DOL's discretion in the area of AEWRs and form the basis for construction of DOL's temporary alien labor certification regulations. *See* 20 CFR 655.0(e).

Since this is an area in which DOL has great "discretion to reach a number of different results rather than an area of pure statutory interpretation as to which there is in theory only a single answer", DOL is proposing the rule below. *See Building & Construction Trades' Department, AFL–CIO* v. *Donovan*, No. 83–1118,———F. 2d——— (D.C. Cir. July 5, 1983), Slip Op. at 15.

While the rule would change the data series by which wage movements are charted and applied to AEWRs, it is within DOL's discretion make such a change. Similarly, the revision of the piece rate regulation to reflect the original intent of DOL, and to protect U.S. workers' wages, at minimum, at an adverse effect level, is well within DOL's statutory and regulatory discretion. As the D.C. Circuit stated in *Building & Construction Trades' Department, AFL–CIO* v. *Donovan*, *supra*, "prior administrative practice carries much less weight than reviewing an action taken in the area of discretion, when little more than a clear statement is needed, than when reviewing an

action in the field of interpretation, where it is thought that the agency's contemporaneous and consistent interpretation of one of its enabling statutes is reliable evidence of what Congress intended." Slip Op. at 15–16.

Development of Proposed Rule

This proposed rule was developed under the direction and control of Mr. Richard C. Gilliland, Director, United States Employment Service, Room 8000—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

Regulatory Impact

The proposed rule would affect only those employers using nonimmigrant alien workers in temporary agricultural jobs in fourteen States. It does not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291 (February 17, 1981).

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. It will not necessitate increased labor costs for employers whose workers now earn above the 1983 AEWR due to their productivity. Further, it applies only to the small number of employers who employ nonimmigrant aliens in agricultural jobs in fourteen States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* an Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment".

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Employment and Training Administration, Forests and forest products, Guam, Labor, Migrant labor, Wages.

Proposed Rule

Accordingly, it proposed that Part 655 of Chapter V of Title 20, Code of Federal Regulations, be amended by revising paragraphs (b) and (c) of § 655.207 thereof, to read as follows:

§ 655.207 Adverse effect rates.

* * * * *

(b) (1) For agricultural employment (except sheepherding) in the States listed in paragraph (b) (2) of this section, and for Florida sugar cane work, the adverse effect rate for each year shall be computed by adjusting the prior year's adverse effect rate by the percentage change (from the third year previous to the second year previous) in the ES–202 report's average weekly wage rates for the appropriate group of agricultural workers. The appropriate group of workers shall be those agricultural workers employed by establishments in Standard Industrial Classification (SIC) Codes Nos. 013, 016, 017, 019, 071 and 072 within that State (except that for purposes of wage movement, but not actual adverse effect rates, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont shall be considered as one State, and Maryland, Virginia, and West Virginia shall be considered as one State). The Administrator shall publish, in each calendar year, on a date he shall determine, adverse effect rates calculated pursuant to this paragraph (b) as a notice in the **Federal Register.**

(2) *List of States.* Arizona, Colorado, Connecticut, Florida (other than sugar cane work), Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Texas, Vermont, Virginia, and West Virginia. Other States may be added as appropriate.

(3) Notwithstanding paragraphs (b) (1) and (2) of this section, the 1983 adverse effect rate shall be computed by adjusting the 1981 adverse effect rate by the percentage change in appropriate ES–202 average weekly wages from 1979 to 1981. The adverse effect rate for a State, set by this paragraph (b), shall be the highest of the rate computed by this methodology in paragraph (b) or the rate applied in the State in 1981 or 1982. Pursuant to the Order in *NAACP, Jefferson County Branch* v. *Donovan,* Civil Action No. 82–2315 (D.D.C. June 28, 1983), the 1982 adverse effect rate for West Virginia was $4.24.

(c) *Piece rate adjustments.* In any year in which the applicable adverse effect rate increases to the point where the employer's previous year's piece rate in a crop activity will not enable the average worker's hourly earnings to equal or exceed the new applicable adverse effect rate without requiring the average worker to increase productivity over the previous year, the employer shall increase the piece rate to a level at which the average worker would earn at least the adverse effect rate. If, at the employer's previous year's piece rate for that crop activity, the average worker's hourly earning equalled or exceeded the adverse effect rate, no adjustment to that piece rate would be required. As used in this paragraph (c), the "average worker" shall refer to the average worker in the applicable crop activity in the area of intended employment.

* * * * *

Secs. 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c)); 8 CFR § 214.2(h)(3)(i))

Signed at Washington, D. C., this 19th day of July 1983.

Raymond J. Donovan,

Secretary of Labor.

Appendix

The material in this appendix appears only in the **Federal Register** and will not be codified as part of the final rule in the Code of Federal Regulations.

BILLING CODE 4510-30-M

Chapter 5. Employment and Wages Covered by Unemployment Insurance

The Employment and Wages program, commonly called the ES-202 program, is a cooperative endeavor of BLS and the employment security agencies of the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. Using quarterly reports submitted by the agencies, BLS summarizes employment and wage data for workers covered by State unemployment insurance (UI) laws and for civilian workers covered by the program of Unemployment Compensation for Federal Employees (UCFE).

The program is a comprehensive and accurate source of employment and wage data, by industry, at the national, State, and county levels. It provides a virtual census of nonagricultural employees and their wages. In addition, about 40 percent of workers in agriculture are covered.

Background

The ES-202 program can trace its origins back to the Social Security Act of 1935, which authorized collection of information to determine if State unemployment compensation programs were in compliance with the act. From the inception of the national UI system in 1938, when the Federal Unemployment Insurance Tax Act became effective, until 1972, collection of the data, publication, and technical expertise were the responsibilities of the U.S. Department of Labor's Manpower Administration, or its predecessor agencies. Semiannual reports summarizing the data were issued until 1950, when the periodical *Employment and Wages* began quarterly publication. In 1972, BLS assumed responsibility and continued quarterly publication until 1975. *Employment and Wages* then became an annual publication until 1980, when quarterly issues were resumed.

Concepts and Methodology

Scope of coverage

In 1938, UI coverage and, consequently, ES-202 reporting requirements, extended only to private firms employing eight or more persons at least 20 weeks a year; certain employee groups were exempt. Insurance coverage was successively broadened, to include Federal civilian employees[1] (1955); firms employing four to seven employees and ex-military personnel[2] (1958); and firms employing one to three employees, and State colleges, universities, and hospitals (1972). In 1978, coverage was extended to nearly all other State and local public employees; to agricultural firms employing a minimum of 10 workers or having a $20,000 quarterly payroll; and to employers paying a quarterly minimum of $1,000 to domestic workers.[3]

UI coverage is broad and basically comparable from State to State. In 1981, UI and UCFE covered 90,641,808 workers, or 90.3 percent of civilian employment. Covered workers received $1,483 billion in pay or 95.7 percent of the wage and salary component of personal income. The principal exclusions from coverage are members of the Armed Forces, railroad employees, and most domestic workers, agricultural employees, and some employees of small nonprofit organizations. Also excluded are the self-employed and unpaid family members.

Establishment

An establishment is an economic unit, such as a farm, mine, factory, or store, which produces goods or provides services. It usually is at a single physical location and engaged in one, or predominantly one, type of economic activity, for which a single industrial classification may be applied. Occasionally, a single physical location encompasses two or more separate, distinct, and significant activities, having separate records, and classifiable in separate industrial codes. Each activity unit is then properly reported as a separate establishment.

Reporting units

A reporting unit is the economic unit for which the employer submits a contribution report or identifies

[1] Under the Unemployment Compensation for Federal Employees (UCFE) program.

[2] Under the Unemployment Compensation for Ex-servicemen (UCX) program.

[3] The coverage given is, in all cases, the minimum required by Federal law. State legislation often provides coverage for additional categories of workers.

separate locations on a supplemental form that is included with the regular contribution report.

Most employers covered under State UI laws operate at only one location and primarily or entirely engage in one activity. In such instances, the establishment and the reporting unit are identical. Multiunit employers having establishments in more than one county or classifiable in more than one 4-digit industry ordinarily must submit separate reports for each establishment. However, employers having a total of fewer than 50 employees in all secondary counties or industries may combine these units with the primary county or industry report.

Employers having a number of similar units, particularly in industries characterized by small branch establishments (food stores, drug stores, banks) are allowed to combine all branch establishments within a county on a single report, regardless of employment.

In government, the reporting unit is the installation (a single location at which a department, agency, or other government instrumentality has civilian employees). Federal agencies follow slightly different criteria from private employers in breaking down their reports by installations. They are permitted to combine as a single statewide unit (1) all installations with 10 workers or fewer and (2) all installations which have a combined total in the State of fewer than 50 workers. Also, when there are fewer than 25 workers in all secondary installations in a State, they may be combined and reported with the major installations.

As a result of these reporting rules, the number of reporting units is always larger than the number of employers (or government agencies) but smaller than the number of establishments (or installations).

Employment

Employment data represent the number of workers on the payroll during the pay period including the 12th of the month.[4] The pay period varies in length from employer to employer; for most employers, it is a 7-day period, but not necessarily a calendar week. An employer who pays on more than one basis (such as weekly for production employees and semimonthly for office employees) reports the sum of the number of workers on each type of payroll for the period.

The employment count includes all corporation officials, executives, supervisory personnel, clerical workers, wage earners, pieceworkers, and part-time workers. Workers are reported in the State and county of the physical location of their job. Persons on paid sick leave, paid holiday, paid vacation, and so forth are included, but those on leave without pay for the entire payroll period are excluded,

Persons on the payroll of more than one establishment are counted each time reported. Workers are counted even though their wages may be nontaxable for UI purposes during that period (having reached the taxable limit for the year).

The employment count excludes employees who earned no wages during the entire applicable period because of work stoppages, temporary layoffs, illness, or unpaid vacations; and employees who earned wages during the month but not during the applicable pay period.

Total wages

Total wages, for purposes of the quarterly UI reports submitted by employers in private industry in most States, include gross wages and salaries, bonuses, tips and other gratuities, and the value of meals and lodging, where supplied. Total wages, however, do not include employer contributions to old-age, survivors', disability, and health insurance (OASDHI), unemployment insurance, workers' compensation, and private pension and welfare funds.[5]

In most States, firms report the total wages paid during the calendar quarter, regardless of the timing of the services performed. Under laws of a few States, however, the employers report total wages earned during the quarter (payable) rather than actual amounts paid.

For Federal workers, wages represent the gross amount of all payrolls for all pay periods ending within the quarter. This gross amount includes cash allowances and the cash equivalent of any type of remuneration. It includes all lump-sum payments for terminal leave, withholding taxes, and retirement deductions. Federal employee remuneration generally covers the same types of services as those for workers in private industry. Depending on the method used by the Federal agency in preparing its quarterly summary balance (cash or accrual basis), the gross amount of payrolls is either paid or payable.

Taxable wages and contributions

Taxable wages are that part of wages subject to the State unemployment insurance tax. Contributions are calculated on taxable wages and are reported quarterly.

Under Federal law, certain units of State and local governments and certain nonprofit establishments may elect to reimburse the State for any unemployment insurance claims that have been filed against them. These reimbursable accounts are not subject to the quarterly

[4] The Department of Defense is an exception. The employment count in installations of the Department of Defense covers all persons employed on the last workday of the month plus all intermittent employees during the month. Intermittent workers are occasional workers who were employed at any time during the month.

[5] Employee contributions for the same purposes, as well as money withheld from the employee's gross pay for income taxes, union dues, etc., are excluded in the UI reports.

assessment for Unemployment Insurance funds and, therefore, their taxable wages and contributions are not reported.

In mid-1982, approximately half the States required that employers pay UI taxes on the first $6,000 of employee wages—the minimum established by Federal law. The remaining States established higher limits on taxable earnings. The portion of wages subject to taxation has varied substantially over time. In mid-1982 also, about half the States allowed employers to obtain lower tax rates by making voluntary contributions to the unemployment tax fund. A small number of States also require contributions from employees. Such contributions are included without separate identification.

Industrial classification

State employment security agencies use the current Standard Industrial Classification (SIC) Manual to classify each reporting unit according to its primary activity. States assign a 4-digit industrial code to all new units and review and update codes, where necessary, on a 3-year cycle. Establishments or government installations reporting more than one activity allocate the proper proportion of total production, revenue, sales, or payroll costs (depending on the industry group) to each activity. The State agency designates the proportionately largest activity as the primary activity. Occasionally, two or more relatively minor activities may be determined to fall within the same industry classification and, when combined, become the primary activity.

In some industries, separate establishments of the same employer often carry on the same activities, in the same proportions, and may be combined at the county level. Sometimes, however, the proportions vary to such a degree that the units must be classified in differing industries and file separate reports.

Since 1938, the industrial classification of business establishments and government installations has undergone a number of modifications. (See table.) Until 1945, classification was based on the *Social Security Board* (SSB) *Classification Manual*. At that time, the basis was changed to the SIC Manual, which since has been revised several times. Originally, establishments were classified into 20 manufacturing and 60 nonmanufacturing groups, on a 2-digit basis. The number of such groups has remained fairly constant. Three-digit groupings were added in 1942 and 4-digit groupings were added for manufacturing in 1956 and for nonmanufacturing in 1968. (See table.) Statewide 4-digit classifying for nonmanufacturing did not become mandatory until 1978. A few industry exceptions allow 3-digit coding (34 4-digit SIC's are collapsed into 9 3-digit SIC's). These few exceptions are coded at the 3-digit level because it is difficult to get systematic and accurate information sufficient to code at the 4-digit level.

Industrial classification of employment and wage data, 1938–81

Period	Number of industry groups by:			Basis of industrial classification						
				Social Security Board (SSB)		Standard Industrial Classification (SIC)				
	2-digit code	3-digit code	4-digit code	1939 edition	1942 edition	1945 edition	1957 edition	1967 edition	1972 edition	1977 edition
Manufacturing										
1938-41	20			X						
1942-46	21	146			X					
1947-55	21	150				X				
1956-57	21	150	[1]489			X				
1958-67	21	148	[1]433				X			
1968-74	21	148	[1]417					X		
1975-76	20	143	451						X	
1979-81	20	143	452							X
Nonmanufacturing										
1938-41	60			X						
1942-57	56	256			X					
1958-67	58	236					X			
1968-74	62	235	[1]494					X		
1975-77	64	277	[2]553						X	
1978	64	277	553							X
1979-81	64	277	553							

[1] January-March quarter only.

[2] Not coded on a mandatory basis.

Collection methods

Approximately 4.5 million reporting units in the nonagricultural private sector submit quarterly reports to State agencies, with data on monthly employment, quarterly total and taxable wages, and contributions. In addition, the 53 State agencies receive reports from about 33,000 reporting units of the Federal Government for their civilian employees under the UCFE program in each State; they also receive reports covering nearly 99 percent of State and 96 percent of local government employees, and about 40 percent of all farm workers.

The State agencies summarize and codify the raw data; check for missing information and errors; prepare estimates of data for delinquent reports; and finally, machine process the data onto magnetic tapes. Five months following the end of each quarter, the agencies are scheduled to send the tapes to Washington. The States have the option of either submitting two tapes—(1) statewide by 4-digit industry and (2) county by 2-digit industry—or one tape, 4-digit industry by county. Most States provide the latter.

BLS, in turn, further summarizes these data at county, State, and national levels, by industry and by size of reporting unit, and publishes the summaries in the quarterly and annual *Employment and Wages* publication.

The individual States, which have a wide range of uses for these data, usually publish their own ES-202 reports.

Comparison of the ES-202 Program with Other Series

A number of statistical data series, in addition to the ES-202 program, produce employment and wage data comparable in some respects to those obtained by ES-202. These series all have certain applications, strengths, and shortcomings. The ES-202 program, because of its broad universe coverage, continuity, and currency, is one of the most useful.

Economic Census and County Business Patterns

The Bureau of the Census conducts a census of most industries every 5 years. These data, along with the annual Company Organization Survey for multiunits and data from the Internal Revenue Service and Social Security Administration for single units, are combined to develop *County Business Patterns (CBP)* reports. The Census information is similar to ES-202 data, although various differences in concepts and methodology make comparisons difficult, particularly in some measurements, such as size of firm. The Bureau of the Census uses a finer establishment breakdown than the ES-202 reporting concept, so that numbers of units and employment per unit may differ. The Bureau of the Census separately tabulates central administrative offices and auxiliaries at the division level only. Therefore, industry breakouts of private sector data at the 2-digit, 3-digit, or 4-digit level will exclude these groups.

In addition, the census reports exclude public sector employees (except in the *Census of Government*). Some censuses (but not *County Business Patterns*) include self-employed persons in the retail trade, construction, and service industries, who are not covered by UI. The censuses also impute employment data, while ES-202 adheres to reported figures. The ES-202 data are more frequently updated and consequently the program maintains more continuity.

Current Employment Statistics

The Current Employment Statistics (CES), or 790 program of BLS, employs a sample of 177,000 establishments to provide current estimates of monthly nonagricultural employment, average hourly earnings, average weekly earnings, and average weekly hours. The 790 program's employment estimates are benchmarked primarily to ES-202 records, which cover about 98 percent of all nonagricultural employees and 97 percent of those in the private nonagricultural sector. For the remaining industries, 790 uses several other sources, including the Bureau of the Census' *County Business Patterns* for certain salespersons and agents, the Interstate Commerce Commission data for railroad workers, the U.S. Department of Education and the National Catholic Welfare Association data for private elementary and secondary schools, and the National Council of Churches data and State surveys for religious organizations.

In addition to being sample-based as opposed to being a universe count, the 790 program differs from ES-202 in that it provides hourly earnings for production (nonsupervisory) workers only whereas ES-202 provides total payroll data for all employees, unrelated to hours.

Office of Personnel Management

The Office of Personnel Management (OPM) maintains a statistical series on Federal employment and payroll information by agency, type of position and appointment, and employee demographic characteristics. Both the OPM and the ES-202 series exclude the Central Intelligence Agency and the National Security Agency, the Armed Forces, temporary emergency workers, and crews of certain vessels. The OPM, but not ES-202, includes employees working in foreign countries, workers paid on a fee or commission basis, and paid patients, inmates, and certain employees of Federal institutions, whereas the ES-202, but not OPM, includes Department of Defense employees paid from nonappropriated funds, employees of the Agricultural Extension Service, County Agricultural Stabilization and Conservation

Committees, and State and Area Marketing Committees.

In comparison with the OPM data, ES-202 data provide more industry and local employment and wage detail, and more frequently updated detail on employment by State. OPM, of course, has certain statistics that have no parallel in ES-202.

Current Population Survey

The Current Population Survey (CPS) is a sample survey of 60,000 households chosen to represent the entire civilian noninstitutional population and labor force. Therefore, the sample includes categories of workers which are entirely or partly excluded from the ES-202 program—certain farm and domestic workers, the self-employed, persons working 15 hours or more in the survey week as unpaid workers in an enterprise operated by a member of the family, employees of certain nonprofit organizations, and railroads. The CPS also counts employees uncompensated because of temporary absence, but excludes workers under 16 years old. Because the CPS is a sample and surveys households rather than establishments, it cannot present employment and wage data in the industrial and geographical detail available under the ES-202 program, but it does provide demographic characteristics.

Presentation

Employment and Wages, an annual and quarterly BLS publication, presents State and national totals for covered employment and wages by broad industry division and major industry group. Data for Federal workers also are shown by agency, industry, and State.

For the first quarter of each year, the publication includes distributions of employment and wages by size of reporting unit for each major industry division within each State and by industry for the United States as a whole. These data are distributed in nine employment-size categories.

To preserve the anonymity of establishments, BLS withholds publication of data for any county, State, or national industry level in which there are fewer than three reporting units, or in which the employment of a single installation or establishment accounts for over 80 percent of the industry. At the request of a State, data are also withheld where there is reason to believe that the "fewer than three" rule would not prevent disclosure of information pertaining to an individual reporting unit or would otherwise violate the State's disclosure provisions. Information concerning Federal employees, however, is fully disclosable.

In addition to published information, unpublished data, such as county level data and 3-digit industry data by State are available upon request. Depending on the request, the data may be provided, for a nominal fee, on microfiche or magnetic tape.

Uses

As the most complete universe of monthly employment and quarterly wage information by industry, county, and State, the ES-202 series has broad economic significance in evaluating labor trends and major industry developments in time series analyses and industry comparisons, and in special studies such as analyses of wages by size of firm.

The program provides data necessary to both the Employment and Training Administration and the various State Employment Security Agencies in administering the employment security program. The data accurately reflect the extent of coverage of the State unemployment laws and are used to measure UI revenues and disbursements; national, State, and local area employment; and total and taxable wage trends. The information allows actuarial studies, determination of experience ratings, maximum benefit levels, areas needing Federal assistance, and also helps ensure the solvency of Unemployment Insurance funds.

The ES-202 data are used by a variety of other BLS programs. They serve, for example, as the basic source of benchmark information for employment by industry and by size of firm in the Current Employment Statistics Program (BLS 790). The Unemployment Insurance Name and Address File, compiled from ES-202 reports, also serves as a national sampling frame for establishment surveys by the Industry/Area Wage, Occupational Employment Statistics, and Occupational Safety and Health Statistics programs.

Additionally, the Bureau of Economic Analysis of the Department of Commerce uses ES-202 wage data as a base for estimating a large part of the wage and salary component of national personal income and gross national product. These estimates are instrumental in Federal allocation of revenue-sharing funds to State and local governments. The Social Security Administration also uses ES-202 data in updating economic assumptions and forecasting trends in the taxable wage base.

Finally, the ES-202 report is one of the best sources of detailed employment and wage statistics used by business and public and private research organizations.

Technical References

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U.S. Department of Labor, Manpower Administration (now Employment and Training Administration). "Technical Notes on Insured Unemployment, Covered Employment, and Wage Statistics: Their Source, Nature, and Limitations," *Summary of Employment Security Statistics Reports*, 1975.

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[FR Doc. 83-19932 Filed 7-21-83; 8:45 am]
BILLING CODE 4510-30-C

federal register

Friday
July 22, 1983

Part VI

Department of Education

Office of the Secretary

Student Assistance General Provisions; Registration With Selective Service

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 668

Student Assistance General Provisions; Registration With Selective Service

AGENCY: Department of Education.

ACTION: Notice of revision of schedule for implementation of final regulations for the Student Assistance General Provisions—Selective Service Registration Requirements.

SUMMARY: The Secretary of Education amends the notice announcing the schedule for implementation of the regulations on registration with Selective Service as a condition for receipt of student financial assistance. The purpose of this amendment is to afford institutions of higher education ample time to begin implementing the regulations.

FOR FURTHER INFORMATION CONTACT: Mr. William Moran, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Ave., SW., (Room 4100, Regional Office Building 3), Washington, D.C. 20202. Telephone (202) 245-2247.

SUPPLEMENTARY INFORMATION: On July 6, 1983, the Secretary of Education published a notice announcing a schedule for initial implementation of the regulations for the Student Assistance General Provisions—Selective Service Registration Requirements (48 FR 31175).

In order to allow sufficient time for institutions of higher education to begin implementing these regulations, the Secretary is revising the schedule as follows:

On page 31175, column 2, in numbered paragraph (1), line 10, the July 31, 1983 date is changed to read "August 31, 1983."

On page 31175, column 2, in the last full paragraph, line 1, the August 1, 1983 date is changed to read "September 1, 1983."

On page 31175, column 3, in the first and second lines, the July 31, 1983 date is changed to read "August 31, 1983".

On page 31175, column 3, in the sixth and seventh lines, the August 1, 1983 date is changed to read "September 1, 1983".

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant program, 84.007; Guaranteed Student Loan program, 84.032; PLUS program, 84.032; College Work-Study program, 84.033; National Direct Student Loan program, 84.038; Pell Grant program, 84.063; State Student Incentive Grant program, 84.069)

Dated: July 20, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-20084 Filed 7-21-83; 11:15 am]

BILLING CODE 4000-01-M

Reader Aids

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INFORMATION AND ASSISTANCE

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thuraday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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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	

Note: **The Office of the Federal Register proposed to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.**

List of Public Laws

Last Listing July 20, 1983

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 (phone 202-275-3030).

S.J. Res. 18/Pub. L. 98-55 Designating September 22, 1983, as "American Business Women's Day". (July 19, 1983; 97 Stat. 290) Price: $1.50

S.J. Res. 34/Pub. L. 98-56 Designating "National Reye's Syndrome Week". (July 19, 1983; 97 Stat. 291) Price: $1.50

LIST OF ACTS REQUIRING PUBLICATION IN THE FEDERAL REGISTER, 1982

Additions to Table III, January 1982 through January 14, 1983

This table lists the subject matter, public law number, and citations to the U.S. Statutes at Large and U.S. Code for those acts of the second session of the 97th Congress which require Federal agencies to publish documents in the **Federal Register**. Table II appears in the CFR Index and Finding Aids volume revised as of January 1, 1983.

Description of Act	*Citation*
Prompt Payment Act	Public Law 97-177; 96 Stat. 85; 31 U.S.C. 3902.
Fisherman's Contingency Fund for Outer Continental Shelf areas	Public Law 97-212; 96 Stat. 147; 43 U.S.C. 1843.
Mount St. Helens National Volcanic Monument, Wash., designation	Public Law 97-243; 96 Stat. 301.
Tax Equity and Fiscal Responsibility Act of 1982	Public Law 97-248; 96 Stat. 405, 567; 42 U.S.C. 1382f, 26 U.S.C. 4262.
Crater Lake National Park, Oreg., boundary corrections	Public Law 97-250; 96 Stat. 709.
Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982.	Public Law 97-251; 96 Stat. 713; 38 U.S.C. 4107 note:
Communications Act of 1934, amendment	Public Law 97-259; 96 Stat. 1088, 1089; 47 U.S.C. 154.
Job Training Partnership Act	Public Law 97-300; 96 Stat. 1347, 1348, 1353, 1355; 29 U.S.C. 1572, 1579, 1591.
Student Financial Assistance Technical Amendments Act of 1982	Public Law 97-301; 96 Stat. 1401, 1402; 20 U.S.C. 1070a note.
Endangered Species Act Amendments of 1982	Public Law 97-304; 96 Stat. 1412—1415, 1419; 16 U.S.C. 1533, 1536.
Veterans' Compensation, Education, and Employment Amendments of 1982.	Public Law 97-306; 96 Stat. 1435; 38 U.S.C. 1662 note.
Garn-St Germain Depository Institutions Act of 1982	Public Law 97-320; 96 Stat. 1513; 12 U.S.C. 216b.
Coast Guard Authorization Act of 1982	Public Law 97-322 (Title I); 96 Stat. 1586, 1587; 46 U.S.C. 1482, 14 U.S.C. 193, 631 note, 33 U.S.C. 2073, 1231a.
Protection Island National Wildlife Refuge Act	Public Law 97-333; 96 Stat. 1624.
Indiana Dunes National Lakeshore, land conveyance	Public Law 97-356; 96 Stat. 1703.
Sleeping Bear Dunes National Lakeshore, Mich., establishment	Public Law 97-361; 96 Stat. 1724; 16 U.S.C. 460x-11.
Alcohol Traffic Safety programs and national driver register	Public Law 97-364; 96 Stat. 1740; 23 U.S.C. 408 note.
Fisheries Amendments of 1982	Public Law 97-389; 96 Stat. 1950; 16 U.S.C. 1034.
Interior Department and related agencies, appropriations for FY 1983	Public Law 97-394; 96 Stat. 1977, 1978, 2000; 28 U.S.C. 2415 note, 30 U.S.C. 241.
Florida Indian Land Claims Settlement Act of 1982	Public Law 97-399; 96 Stat. 2013; 25 U.S.C. 1744.
Nuclear Regulatory Commission, appropriations authorization	Public Law 97-415; 96 Stat. 2072; 42 U.S.C. 2242.
Federal Public Transportation Act of 1982	Public Law 97-424; 96 Stat. 2153; 49 U.S.C. 1612.
Nuclear Waste Policy Act of 1982	Public Law 97-425; 96 Stat. 2238, 2254, 2257; 42 U.S.C. 10156, 10203, 10221.
Texas Band of Kickapoo Act	Public Law 97-429; 96 Stat. 2269; 25 U.S.C. 1300b-13.
Tariff Schedules, temporary duty suspension	Public Law 97-446; 96 Stat. 2332; 19 U.S.C. 1202 note.
Convention on Cultural Property Implementation Act	Public Law 97-446 (Title III); 96 Stat. 2354, 2363; 19 U.S.C. 2602, 2601 note.
Federal Oil and Gas Royalty Management Act of 1982	Public Law 97-451; 96 Stat. 2464; 30 U.S.C. 188.
Money and finance, title 31 of U.S. Code, amendments	Public Law 97-452; 96 Stat. 2475; 31 U.S.C. 3902.
Fishery conservation and management	Public Law 97-453; 96 Stat. 2486—2490; 16 U.S.C. 1852, 1854, 1855.
Quarterly financial report, responsibility transferred from Federal Trade Commission to Commerce Secretary.	Public Law 97-454; 96 Stat. 2495; 13 U.S.C. 23 note.
Alaska Railroad Transfer Act of 1982	Public Law 97-468 (Title VI); 96 Stat. 2575; 45 U.S.C. 1209.

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