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federal register

Wednesday
January 26, 1983

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Animal and Plant Health Inspection Service

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Savings and Loan Associations
Federal Home Loan Bank Board

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

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Presidential Documents

Title 3—

The President

Presidential Determination No. 83-4 of January 3, 1983

Presidential Determination With Respect to Pakistan

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to the authority vested in me by Section 4 of the Arms Export Control Act, I hereby determine that the financing under the Arms Export Control Act of the sale to Pakistan of F-16 aircraft, together with associated equipment, munitions, and services, is important to the national security of the United States.

Pursuant to the authority vested in me by Section 163 of the second Joint Resolution appropriating funds for fiscal year 1983 (P.L. 97-377), I hereby certify that I have reliable assurances that Pakistan will not transfer sensitive United States equipment, materials, or technology in violation of agreements entered into under the Arms Export Control Act to any communist country, or to any country that receives arms from a communist country.

This determination, together with the justification therefor, shall be reported to Congress.

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

Ronald Reagan

THE WHITE HOUSE,
Washington, January 3, 1983.

[FR Doc. 83-2307
Filed 1-24-83; 4:25 pm]
Billing Code 3195-01-M

Rules and Regulations

Federal Register
Vol. 48, No. 18
Wednesday, January 26, 1983

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-353]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rules.

SUMMARY: This document affirms seven interim rules which amended the Mediterranean fruit fly quarantine and regulations for California. These interim rules changed the list of regulated areas and the last of these interim rules also removed the Mediterranean fruit fly quarantine and regulations for California. Based on trapping and sampling surveys, it has been determined that the Mediterranean fruit fly has been eradicated from all of California, and that a quarantine and regulations are no longer necessary to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States.

It appears that the factual situations set forth in each of the interim rules provided a basis for the actions taken. Accordingly, the actions taken in these interim rules are affirmed.

EFFECTIVE DATE: January 26, 1983.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 609, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This affirmation of interim rules is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that the actions taken in the interim rules will have an annual effect on the economy of less than $750,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that the actions affirmed by this document will not have a significant economic impact on a substantial number of small entities. The actions affected the interstate movement of previously regulated articles from previously regulated areas. These previously regulated areas consisted of all or portions of Alameda, Los Angeles, San Benito, San Joaquin, San Mateo, Santa Clara, Santa Cruz, and Stanislaus Counties in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 250 small entities move such articles interstate from the previously regulated areas. Further, the overall economic impact from this action is estimated to be less than $750,000.

Background

The Mediterranean fruit fly quarantine and regulations had been set forth in 7 CFR 301.78 *et seq.* During the period from June 1, 1982, through September 21, 1982, seven interim rules were published in the **Federal Register** concerning the Mediterranean fruit fly quarantine and regulations.

These interim rules changed the lists of regulated areas in the quarantine and regulations by:

(1) Deleting areas in Los Angeles, San Benito, and Stanislaus Counties, (47 FR 23682-23683, June 1, 1982),

(2) Deleting areas in Santa Clara and Santa Cruz Counties (47 FR 26121-26122, June 17, 1982),

(3) Deleting all of Alameda County and an area in Santa Clara County (47 FR 28909-28911, July 2, 1982),

(4) Adding an area in San Joaquin County, (47 FR 29207-29209, July 6, 1982),

(5) Deleting areas in Santa Clara and Santa Cruz Counties (47 FR 34109-34111, August 6, 1982),

(6) Deleting all of San Mateo County and an area in Santa Clara County, (47 FR 38861-38862, September 3, 1982), and

(7) Deleting the last regulated area, an area in San Joaquin County (47 FR 41509-41510, September 21, 1982).

Also, the document published in the **Federal Register** on September 21, 1982, removed the quarantine and regulations (47 FR 41509-41510).

The quarantine and regulations were removed because it was determined, based on trapping and sampling surveys, that the Mediterranean fruit fly had been eradicated from all of California, and that a quarantine and regulations were no longer necessary to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States.

Comments were solicited for 60 days after publication of each of the seven documents. No comments were received in response to any of the documents.

It appears that the factual situations set forth in each of the documents provided a basis for the actions taken. Accordingly, it has been determined that the actions referred to above, including the action to remove the quarantine and regulations, are affirmed.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean fruit fly.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2(c))

Done at Washington, D.C., this 21st day of January 1983.

Harvey L. Ford,

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

[FR Doc. 83-2129 Filed 1-25-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 83-42]

Home Loan Amendments; Extension of Transition Period

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is extending the transition period during which Federal savings and loan associations may continue to make home loans pursuant to regulations in effect prior to August 16, 1982. This action permits associations to continue to use the previously existing authority during the pendency of proposed amendments to the regulations governing the operations of Federal associations, including real estate lending.

DATE: Effective January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley (202-377-6417), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On August 11, 1982, Board Resolution 82-558 amended the regulations governing home loans made by Federal associations by replacing regulations authorizing the use of specific types of mortgage instruments with a general authorization to make loans on which the interest rate, the payment, the loan balance or the term to maturity may be adjusted. 47 FR 36612 (1982). The regulations require associations to provide loan applicants comprehensive information in writing regarding the terms of the loan. In order to facilitate transition to the new requirements, the Board permitted associations to continue to make loans under previously existing authority, and to conform to the disclosure requirements of those regulations, until December 31, 1982.

Because the Board recently proposed amendments to all of the regulations governing the operations of Federal associations, including real estate lending (Board Resolution No. 82-813 (December 16, 1982)), the Board has determined that it would be appropriate to extend the transition period for using the authority to make home loans in existence prior to August 16, 1982. Accordingly, the transition period provided in 12 CFR 545.6-2(a)(8) is being extended until the later of June 30, 1983, or final action on Board Resolution No. 82-813.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) is unnecessary because the amendments adopted in Board Resolution 82-813 already have been published for public comment, and that observance of the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) is unnecessary because the amendments relieve a restriction.

Accordingly, the Board hereby amends Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

List of Subjects in 12 CFR Part 545

Savings and loan associations.

Subchapter C—Rules and Regulations for Federal Savings and Loan System

PART 545—OPERATIONS

Revise paragraph (a)(8) of § 545.6-2 as follows:

§ 545.6-2 Other residential real estate loans.

(a) Home loans.

* * * * *

(8) Until the later of June 30, 1983, or final Board action on Board Resolution No. 82-813, associations may, or may commit to, make, purchase, participate or otherwise deal in loans made pursuant to §§ 545.6-4, 545.6-4a and 545.6-4b of this Part, as those sections were constituted prior to August 16, 1982.

* * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp., p. 1071)

Dated: January 20, 1983.

J. J. Finn,

Secretary.

[FR Doc. 83-2110 Filed 1-25-83; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 208

[Economic Reg. Amdt. No. 36, Dockets 40336, 38621; ER-1312]

Terms, Conditions and Limitations of Certificates To Engage in Charter Air Transportation; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Correction to Conforming Amendment.

SUMMARY: In ER-1312 at 48 FR 226, January 4, 1983, the CAB conformed its rules to take account of its recent codification of its domestic baggage liability rules. Because of a typographical error, the amendatory language of ER-1312 incorrectly stated that § 208.39 was amended. The correct citation, as discussed in the preamble of a related rule at 48 FR 226, is § 208.30.

DATES:

Effective January 1, 1983.

Adopted December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5442.

List of Subjects in 14 CFR Part 208

Charter flights, Insurance, Military air transportation, Reporting requirements, Surety bonds, Travel agents.

Accordingly the references to § 208.39 in ER-1312 at 48 FR 227 are corrected to § 208.30.

Dated: January 21, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2147 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 221

[Economic Reg. Amdt. No. 62; Dockets 40336, 38621; ER-1310]

Tariffs; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Correction to Conforming Amendment.

SUMMARY: In ER-1310 at 48 FR 227, January 4, 1983, the CAB conformed Board-mandated notices concerning baggage liability to remove unnecessary references to domestic baggage liability from countersigns and ticket notices because they are governed by a new, recently adopted baggage rule. This notice corrects an inadvertent omission in the amendatory language of the

amendment. Instead of stating that 14 CFR 221.176 was amended, it should have specified that only paragraphs (a) and (b) of that section were being changed. Section 221.176 (c) through (g) remain unchanged.

DATES:

Adopted December 22, 1982.

Effective February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

Accordingly, amendatory paragraph 2 in column 3 at 48 FR 227 is corrected to read:

2. Section 221.176 *Notice of limited liability for baggage: alternative consolidated notice of baggage liability* is amended to remove the references to domestic baggage liability so that § 221.176 (a) and (b) are revised to read:

Dated: January 21, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2146 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-49A]

Staff Accounting Bulletin No. 49A

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: Staff Accounting Bulletin No. 49 (SAB 49), which was released on October 26, 1982 (47 FR 49627, Nov. 2, 1982), expressed the staff's views regarding disclosures by bank holding companies about loans to public and private sector borrowers located in countries that are experiencing liquidity problems. Since the issuance of SAB 49, the staff has received inquiries about its views with respect to the necessity to provide additional disclosures about restructurings of existing debt in these countries, funding of additional borrowings and other related matters. This staff accounting bulletin addresses these issues.

DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Marc D. Oken or Edmund Coulson, Office of the Chief Accountant (202/272-2130); or Howard P. Hodges, Jr., Division of Corporation Finance (202/272-2553), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

George A. Fitzsimmons,

Secretary.

January 18, 1983.

Staff Accounting Bulletin No. 49A

The staff herein adds Question 2 to Section H of Topic 11 of the Staff Accounting Bulletin Series. Section H discusses the appropriate disclosures by bank holding companies about loans to foreign countries that are experiencing liquidity problems.

Topic 11: Miscellaneous Disclosure

* * * * *

H. Disclosures by Bank Holding Companies About Certain Foreign Loans

* * * * *

Question 2:

What additional disclosures does the staff consider appropriate concerning developments occurring subsequent to the initial inclusion of the disclosures called for by Question 1 in a Securities Act or Securities Exchange Act filing?

Interpretive Response:

Generally, registrants should provide the most current information about outstandings to foreign countries experiencing liquidity problems when a periodic Exchange Act document or Securities Act offering is filed in order to make the information previously presented not materially misleading. While quantitative data need not be updated unless there is a material change, additional disclosures about any material subsequent developments may be necessary.

For example, certain foreign countries are currently negotiating with or have entered into agreements with U.S. lenders, other foreign banks, international lending agencies and others to restructure existing sovereign debt and to obtain additional new borrowings. The staff believes that such matters may be material developments, the disclosure of which would be essential to facilitate investor judgments about risks and uncertainties associated with lending activities in these countries. Generally, the disclosures should include discussions of the nature of such negotiations and a general description of any agreements, including the impact on the maturities of existing debt principal and on unpaid interest, any commitments of the registrant to extend additional borrowings to the foreign country, and any other arrangements such as agreements to maintain deposits with government banks.

An additional example of a material development that would warrant disclosure consideration relates to the status of private sector debt in certain foreign countries. The staff understands that at least one such foreign country is implementing a mechanism whereby the government's central bank would, in effect, purchase the obligation for past due interest payments of certain private sector borrowers who otherwise had the ability to make required interest payments on dollar denominated loans but were unable to exchange local currency for the necessary U.S. dollars. These arrangements are intended to enable otherwise creditworthy private sector borrowers to comply with the terms of their loan agreements as to interest payments.

As applied to any country using a mechanism of this general kind, there are complex considerations involved in evaluating whether interest payments pursuant to such a mechanism may be considered as "in substance" payments by the private sector borrowers for financial statement purposes and for purposes of determining whether such loans should be classified as nonperforming.[1] These determinations require careful analyses by registrants of the facts and circumstances, including the status of any scheduled principal payments.

The staff emphasizes that it is the responsibility of the registrant to determine the appropriate financial statement treatment and classification of loans. The staff believes, however, that the nature and impact of any arrangements such as the one referred to above often represent a material development which should be disclosed. The staff believes the following minimum disclosures about such arrangements are appropriate for countries which would be identified pursuant to Question 1[2] when total loans

[1] Industry Guide 3, "Statistical Disclosures by Bank Holding Companies," Item III.C.

[2] Question 1 was published in SAB 49 which was issued on October 26, 1982. Under either of the

by the registrant to all private sector borrowers in that foreign country are material[3] in relation to its total loans to such country:

- A general description of the private sector payment mechanism implemented.
- The amount of loans outstanding to private sector borrowers in that foreign country for which interest payments have been made under the payment mechanism and the status of principal payments due.
- The amounts of any interest accrued on loans to such borrowers in the most recent fiscal year and interim period which has not been remitted in dollars to the U.S. bank (this disclosure may be excluded if the total interest and fees recognized on such loans during the most recent fiscal year is clearly de minimis in relation to the total interest and fees recognized on all foreign loans).

The staff will continue to monitor closely accounting and disclosure practices in this area to ensure that appropriate information is being provided to investors and that the related financial statement treatment of foreign loans is not clearly inconsistent with any facts and circumstances which develop with respect to international lending matters.

[FR Doc. 83-2071 Filed 1-25-83; 8:45 am]
BILLING CODE 8010-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5299/R128; PH-FRL 2291-3]

Metalaxyl; Tolerances for Pesticides in Food Administered by the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation for the combined residues of the fungicide metalaxyl and its metabolites in or on processed tomato products and processed potatoes, including potato chips and granules. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested, pursuant to a petition, by Ciba-Geigy Corporation.

EFFECTIVE DATE: January 26, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA published a notice in the **Federal Register** of June 9, 1981 (46 FR 30562) that announced that the Ciba-Geigy Corporation, Agricultural Division, P.O. Box 11422, Greensboro, NC 27409, had submitted food additive petition 1H5299 to the Agency proposing that 21 CFR 193.277 be amended by establishing a regulation permitting residues of the fungicide metalaxly [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the food commodities processed tomatoes at 3.0 parts per million (ppm) and soybean meal at 1.0 ppm. The petition was subsequently amended (47 FR 53116, November 24, 1982) by adding the food additive tolerances for potato chips and potato granules at 4.0 ppm.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document [PP 1F2500, 1F2532, 2F2695, 2F2732/R517] which appears elsewhere in this issue of the **Federal Register**. A feed additive regulation [FAP 1H5299/R129] for certain feed commodities also appears in this issue.

The food additive regulation for processed potatoes, including potato chips and processed tomatoes, will result in a theoretical maximum residue contribution (TMRC) of 0.45495 mg/day for a 60-kg person and will utilize 30.33 percent of the ADI. Tolerances for the raw agricultural commodities and feed items cited in the above final rule documents, will utilize 15.50 percent of the ADI.

The metabolism of metalaxyl is adequately understood, and an adequate analytical method, using gas chromatography, with flame ionization detector or mass spectrometry, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the food additive regulation is sought, and it is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) et seq.). Therefore, the food additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: January 13, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR 193.277 is revised to read as follows:

§ 193.277 Metalaxyl.

(a) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-methoxyacetyl)-alanine

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disclosure alternatives of SAB 49, registrants would identify countries in which the total public and private sector outstandings which are payable in U.S. dollars exceed one percent of the registrant's total consolidated outstandings.

[3] Generally, the staff believes that the disclosures should be provided if the private sector portion of the loan portfolio represents more than 20% of the total loans to such country or are otherwise material. The twenty percent criterion has been arbitrarily selected in the interest of facilitating disclosure and not as an indicator of a prudent level of lending to private sector borrowers in any country.

methylester, each expressed as metalaxyl, in or on the following food commodities:

Foods	Parts per million
Potatoes, processed (including potato chips)	4.0
Tomatoes, processed	3.0

(b) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in processed tomato products at 3.0 parts per million resulting from application of metalaxyl to growing tomatoes under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 83-2138 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

21 CFR Part 561

[FAP 1H5299/R129; PH-FRL 2291-4]

Metalaxyl; Tolerances for Pesticides in Animal Feeds Administered by the Evironmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation permitting the combined residues of the fungicide metalaxyl and its metabolites in or on dry tomato pomace, wet tomato pomace, and dried processed potato waste. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested, pursuant to a petition, by Ciba-Geigy Corporation.

EFFECTIVE DATE: January 26, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C) Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA published a notice in the **Federal Register** of June 9, 1981 (46 FR 30562) that announced that the Ciba-Geigy Corporation, Agricultural Division, P.O. Box 11422, Greensboro, NC 27409, had submitted feed additive petition 1H5299 to the Agency proposing that 21 CFR 561.273 be amended by establishing a regulation permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the feed commodities dry tomato pomace at 16.0 parts per million (ppm), wet tomato pomace at 4.0 ppm, and soybean hulls and soapstock at 1.0 ppm. The petition was subsequently amended (47 FR 53116, November 24, 1982) by increasing the proposed feed additive tolerance for wet tomato pomace from 4.0 ppm to 5.0 ppm; deleting soybean hulls, soybean meal, and soybean soapstock; and adding dried potato meal at 4.0 ppm.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document [PP 1F2500, 1F2531, 2F2531, 2F2732/R517] which appears elsewhere in this issue of the **Federal Register**. A food additive regulation [FAP 1H5299/R128] for certain food commodities also appears in this issue.

It is concluded that the tolerances established for residues of metalaxyl are adequate to cover any residues resulting from tomato pomace and dried processed potato waste used as animal feed. The feed additive regulation for dry tomato pomace, wet tomato pomace, and dried processed potato waste will result in a theoretical maximum residue contribution (TMRC) of .01705 mg/day for a 60-kg person and will utilize 1.14 percent of the ADI. Tolerances for the raw agricultural commodities and food items cited in the above documents, will utilize 44.69 percent of the ADI.

The metabolism of metalaxyl is adequately understood, and an adequate analytical method, gas chromatography with flame ionization detector or mass spectrometry, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the feed additive regulation is sought, and it is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) et seq.). Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds,
Pesticides and pests.

Dated: January 13, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR 561.273 is revised to read as follows:

§ 561.273 Metalaxyl.

(a) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the following feed commodities:

Feeds	Parts per million
Potato waste, dried, processed	4.0
Tomato pomace, dry	16.0
Tomato pomace, wet	5.0

(b) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on wet tomato pomace at 5.0 parts per million (ppm), dry tomato pomace at 20.0 ppm, soybean hulls, soybean meal, and soybean soapstock at 1.0 ppm resulting from application of metalaxyl to growing tomatoes and soybeans under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 83-2139 Filed 1-25-83; 8:45 am]
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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 390

[Docket No. R-82-1027]

Growing Equity and 10-Year Graduated Payment Mortgage-Backed Securities

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes a new Mortgage-Backed Securities Program that provides for the guaranty by GNMA of securities based on and backed by pools of Growing Equity Mortgages (GEM's). GEM loans are single family mortgages which provide for monthly installments to increase annually for a predetermined term extending up to the maturity of the loan. Only GEM's that are eligible to be and are insured under the National Housing Act or are eligible to be and are guaranteed under Chapter 37 of Title 38, United States Code, will be eligible for inclusion in GNMA pools. This rule also amends the regulations governing the Graduated Payment Mortgage-Backed Securities Program to make eligible mortgages which provide for deferred payments of principal (and interest) and for monthly installments to increase for a period not to exceed the first ten years of the mortgages. Under existing regulations, only Graduated Payment Mortgages (GPM's) which provide for annually increasing monthly installments during the first five years may be included in GNMA pools. These amendments are intended to expand the secondary market in GEM's and GPM's and thereby make available additional mortgage money at reasonable interest rates, particularly to first-time homebuyers

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard W. Dyas, Vice President, Office of Mortgage-Backed Securities, Government National Mortgage Association, U.S. Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-8772. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Under section 306 (g) of the National Housing Act, as amended, the Government National Mortgage Association (GNMA) guarantees the timely payment of principal and interest on securities issued by approved private lenders. The securities are backed by federally insured or guaranteed mortgage loans. GNMA has customarily structured its programs to accommodate the parallel programs of the Department and the Veterans Administration (VA). Following this policy, GNMA established new single-family mortgage programs for 5-year Graduated Payment Mortgages (GPM's) insured by HUD in 1979 and for GPM's guaranteed by the VA in March 1982.

On November 23, 1982, HUD published in the **Federal Register** (47 FR 52727) a proposed rule to establish a new Mortgage-Backed Securities Program for Growing Equity Mortgages (GEM's) and expand the Graduated Payment Mortgage-Backed Securities Program to include 10-year GPM's. The proposed rule invited public comment for a 30-day period ending December 23, 1982. Four comments were received during the comment period, and they were generally in support of the amendments as set forth in the proposed rule. This final rule contains no changes in substance from the proposal.

The new program established by this final rule will accommodate GEM's with increasing payments for 10 years at 2 or 3 percent each year. HUD has insured these mortgages under section 245 of the National Housing Act since June 1982. This rule will also accommodate such other GEM or GPM programs as HUD or the VA may establish. To further facilitate the implementation of these programs, GNMA is reducing the minimum size of GPM and GEM pools to $500,000, from $1 million.

The eligibility of these loans for securities issuances will substantially enhance their marketability. HUD specifically seeks to encourage pension plan investment in housing thereby, to increase the availability of funds for mortgage lending and help maintain interest rates at reasonable levels.

Since this final rule will provide a benefit to homebuyers by increasing the availability of financing under the GEM and GPM programs, the Secretary has found that good cause exists for making this rule effective less than 30 days after its publication in the **Federal Register**. In addition, the requirements of section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), which provides for a delay in effectiveness of final rules for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs, have been so waived. Accordingly, this final rule may become effective on the date set forth above.

A finding of no significant impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not:
(1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule merely expands the class of mortgages eligible to back securities guaranteed by GNMA.

This rule is listed at 47 FR 46448 as item GNMA-9-82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant

to Executive Order 12291 and the Regulatory Flexibility Act.

OMB Control Number

Information collection requirements contained in the Mortgage-Backed Securities Guide (GNMA 5500.1) referred to in 24 CFR 390.48 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control numbers 2503-0001, 2503-0004, 2503-0008, and 2503-0009.

GNMA's programs are not listed in the Catalog of Federal Domestic Assistance.

List of Subjects in 24 CFR Part 390

Mortgages, Securities.

PART 390—[AMENDED]

Accordingly, 24 CFR Part 390 is amended as follows: 1. Section 390.42 is revised to read as follows:

§ 390.42 Eligible mortgages.

Each issue of guaranteed securities shall be based on and backed by a pool of Graduated Payment Mortgages which:

(a) Are insured under the National Housing Act or guaranteed under Chapter 37 of Title 38, United States Code: *Provided,* That all such pooled mortgages shall provide for equal (level) monthly installments beginning no later than the 121st scheduled monthly installment; and

(b) Have a date for the first scheduled monthly payment of principal (which may be negative) and interest, or date of purchase from an Association approved auction, that is no more than 12 months prior to the date on which the Association makes its commitment to guarantee the issue of securities.

2. In § 390.43, paragraph (b) is revised to read as follows:

§ 390.43 Securities.

* * * * *

(b) *Issue Amount.* Each issue of securities shall be in an amount no less than $500,000. The total face amount of any issue of securities shall not exceed the aggregate scheduled unpaid principal balances of the mortgages in the pool as of the issue date of the securities. The Association and issuers reserve the right to consolidate pools of mortgages backing the securities with other pools backed by similar mortgages bearing the same interest rate and maturity dates.

* * * * *

3. Subparts D and E are respectively redesignated as "Subpart E—Marketing and Trading Requirements" and "Subpart F—Miscellaneous Provisions."

4. A new subpart D is added, to read as follows:

Subpart D—Growing Equity Mortgage-Backed Securities

Sec.

Subpart D—Growing Equity Mortgage-Backed Securities

§ 390.48 General.

This subpart provides for the guaranty by the Association of timely payment of principal and interest on modified pass-through securities based on and backed by eligible mortgages, which mortgages provide for annually increasing monthly installments. The Association is authorized by section 306(g) of the National Housing Act to make such guarantees. Issuance of securities under this subpart is subject to the provisions that follow, to the further provisions contained in the Mortgage-Backed Securities Guide (GNMA 5500.1), as it shall exist and be amended or supplemented from time to time, and to the contracts entered into by the participating parties. (Information collection requirements contained in the Mortgage-Backed Securities Guide have been approved by the Office of Management and Budget under OMB control number 2503-0001, 2503-0004, 2503-0008 and 2503-0009.)

§ 390.48a Eligible issuers of securities.

To be eligible to issue Growing Equity Mortgage-Backed Securities, an applicant shall satisfy those requirements applicable to the issuance of modified pass-through securities based on and backed by mortgages on one- to four-family residences as provided in § 390.3 (Eligible Issuers of Securities).

§ 390.48b Eligible mortgages.

Each issue of guaranteed securities shall be based on and backed by a pool of Growing Equity Mortgages which:

(a) Provide for monthly installments to increase annually for a predetermined term extending up to the maturity of the loan, and are eligible to be and are insured under the National Housing Act or are eligible to be and are guaranteed under Chapter 37 of Title 38, United States Code; and

(b) Have a date for the first scheduled monthly payment of principal and interest, or date of purchase from an Association-approved auction, that is no more than 12 months prior to the date on which the Association makes its commitment to guarantee the issue of securities.

§ 390.48c Securities.

(a) *Instruments.* Securities to be issued under this subpart shall be designated Growing Equity Mortgage-Backed Securities. They shall be issued in the form of modified pass-through type securities, which shall provide that each monthly installment payable to the holders shall consist of: (1) The interest due monthly on the securities computed as one-twelfth (1/12) of the annual rate provided for multiplied by the unpaid principal balance of the securities at the end of the prior month, and (2) the scheduled recoveries of principal due monthly on the pooled mortgages and apportioned to the holders by reason of the base and backing of these securities, such amounts of principal and interest to be remitted to the holders whether or not funds sufficient to pay an installment are collected by the issuer, together with (3) any apportioned prepayments or other unscheduled recoveries of principal on the pooled mortgages. Unscheduled recoveries of principal shall include amounts which an issuer must pay from its own funds to provide the holders with any principal that remains unrecovered after receipt of a final insurance claim settlement or other liquidation proceeds. At any time 90 days or more after default of any pooled mortgage the issuer may, at its option, repurchase such mortgage from the pool for an amount equal to the unpaid principal balance of the mortgage. The securities shall provide for specific maturity dates and dates upon which payments are to be made to the holders.

(b) *Issue Amount.* Each issue of securities shall be in an amount no less than $500,000. The total face amount of any issue of securities shall not exceed the aggregate scheduled unpaid principal balances of the mortgages in the pool as of the issue date of the securities. The Association and issuers reserve the right to consolidate pools of mortgages backing the securities with other pools backed by similar mortgages bearing the same interest rate and maturity dates.

(c) *Face Amount.* The original face amount of any security shall not be less than $25,000.

(d) *Transferability.* The securities are

freely transferable and assignable, but only on the books and records of the Association and the issuer.

§ 390.48d Pool Administration.

Administration of the securities and the pooled mortgages shall be in accordance with the provisions of § 390.9 (Pool Administration).

§ 390.48e Guaranty.

With respect to Growing Equity Mortgage-Backed Securities, the Association guarantees the timely monthly payment, whether or not collected, of the scheduled interest and principal installments, and any prepayments or other early recoveries of principal on the mortgages, as undertaken in the Association's guaranty appearing on the face of the instruments. The Association's guaranty is backed by the full faith and credit of the United States.

§ 390.48f Default.

Any failure or inability of an issuer to make fixed or other payments to securities holders when due shall be deemed an event of default under the guaranty agreement entered into between the Association and the issuer. Such other failures or inabilities of the issuer to perform any function or duty provided for in the guaranty agreement may also be deemed an event of default. Upon any default by an issuer, and payment by the Association under its guaranty, or any failure of the issuer to comply with the terms of the guaranty transaction, the Association may institute a claim against the issuer's fidelity bond, or may extinguish all right, title, or other interest of the issuer in the pooled mortgages, subject only to unsatisfied rights therein of the securities holders, by letter to the issuer making the mortgages the absolute property of the Association, or the Association may do both.

§ 390.48g Fees.

The Association may impose application fees, guaranty fees, securities transfer fees, and such other fees as it may deem appropriate.

(Sec. 309(a), National Housing Act (12 U.S.C. 1723a(a)); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: January 18, 1983.

Warren Lasko,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 83-2121 Filed 1-25-83; 8:45 am]

BILLING CODE 4210-01-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

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982. This document also contains rules relating to the taxable year which the corporation may select in order to make the election to be an S corporation. Furthermore, it reflects the amendment made to that Act by the Technical Corrections Act of 1982. These regulations provide guidance to persons making these elections, consents, or refusals.

DATE: The temporary regulations generally apply to taxable years beginning after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Robert H. Ginsburgh of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to certain elections, consents, and refusals under various sections of the Internal Revenue Code of 1954 and under sections 2 and 6 of the Subchapter S Revision Act of 1982 (96 Stat. 1669). This document also reflects the amendment made to that Act by the Technical Corrections Act of 1982. These temporary regulations are included in Part 18, Temporary Income Tax Regulations Under the Subchapter S Revision Act of 1982. The temporary regulations provided by this document will remain in effect until superseded by later temporary or final regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB Implementation of the Order dated April 28, 1982.

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for these temporary regulations.

Drafting Information

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

List of Subjects in 26 CFR Part 18

Income taxes, Subchapter S Revision Act of 1982.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 18 is retitled and revised to read as follows:

PART 18—TEMPORARY INCOME TAX REGULATIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Sec.

Authority: Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and sec. 6(c)(3)(B)(iii) of the Subchapter S Revision Act of 1982 (96 Stat. 1669).

§ 18.0 Effective date of temporary regulations under the Subchapter S Revision Act of 1982.

The temporary regulations provided under §§ 18.1361-1, 18.1362-1 through 18.1362-4, 18.1377-1, 18.1379-1, and 18.1379-2 are effective with respect to taxable years beginning after 1982, and the temporary regulations provided under § 18.1378-1 are effective with respect to any election made after October 19, 1982.

§ 18.1361-1 Election to treat qualified subchapter S trust as a trust described in section 1361(c)(2)(A)(i).

(a) *Qualified subchapter S trust election.* This paragraph applies to the election provided in section 1361(d)(2) to

treat a qualified subchapter S trust (as defined in section 1361(d)(3)) as a trust described in section 1361(c)(2)(A)(i). The current income beneficiary of the trust or the legal representative of the current income beneficiary (or a natural or an adopted parent of the current income beneficiary in the case where a legal representative has not been appointed, but only if the current income beneficiary is a minor) shall make this election by signing and filing with the service center with which the corporation files its income tax return a statement that—

(1) Contains the name, address, and taxpayer identification number of the current income beneficiary, the trust, and the corporation,

(2) Identifies the election as an election under section 1361(d)(2),

(3) Specifies the date on which the election is to become effective (not earlier than 60 days before the date on which the election is filed), and

(4) Provides all information necessary to show that the current income beneficiary is entitled to make the election.

In all cases the corporation must make the election under section 1362(a) before an election under section 1361(d)(2) is made with respect to that corporation. In general, the election under section 1361(d)(2) must be filed within the 61-day period beginning on the date on which the stock of the corporation is transferred to the trust or within the 61-day period beginning on the first day of the first taxable year for which the election under section 1362(a) is effective, whichever period of time occurs later.

However, if stock of the corporation has been transferred to the trust on or before the date on which the corporation makes the election under section 1362(a), and if that election and that transfer are made before the beginning of the first day of the first taxable year for which that election is effective, the election under section 1361(d)(2) must be filed within the 61-day period beginning on the date on which the corporation makes the election under section 1362(a). When a grantor or another person is treated as the owner (under subpart E, part I, subchapter J, chapter 1 of the Code) of any stock in a small business corporation (determined without regard to section 1361(b)(1)(B)) that is held by the trust, the election under section 1361(d)(2) may not be made with respect to that corporation. Note that the election provided in section 1361(d)(2) does not itself constitute an election as to the status of the corporation; the corporation must make the election provided in section 1362(a) to be treated as an S corporation.

(b) *Successive income beneficiary.* If a prior income beneficiary of a qualified subchapter S trust has made an election under section 1361(d)(2), the successive income beneficiary of the trust shall be treated as consenting to the election unless that beneficiary affirmatively refuses to consent to the election. The successive income beneficiary of the trust shall make the affirmative refusal to consent by signing and filing with the service center with which the corporation files its income tax return a statement that—

(1) Contains the name, address, and taxpayer identification number of the successive income beneficiary, the trust, and the corporation,

(2) Identifies the refusal as an affirmative refusal to consent under section 1361(d)(2),

(3) Sets forth the date on which the successive income beneficiary became the income beneficiary, and

(4) Provides all information necessary to show that the successive income beneficiary is entitled to make this refusal.

The affirmative refusal to consent must be filed within 60 days after the date on which the successive income beneficiary became the income beneficiary. The affirmative refusal to consent shall be effective as of the date on which the successive income beneficiary became the income beneficiary.

(c) *Revocation of election under section 1361(d)(2).* An election made under section 1361(d)(2) may be revoked only with the consent of the Commissioner. An application for consent to revoke the election shall be signed by the current income beneficiary and filed with the service center with which the election was properly filed and shall—

(1) Contain the name, address, and taxpayer identification number of the current income beneficiary, and of the trust and the corporation identified in connection with the election,

(2) Identify the election being revoked as an election under section 1361(d)(2), and

(3) Explain why the current income beneficiary seeks to revoke the election.

§ 18.1362-1 Election to be an S corporation.

(a) *Manner of making election.* To make the election to be an S corporation, a small business corporation should file Form 2553, containing all the information required by that form. With respect to each shareholder who is required by paragraph (b) of § 18.1362-2 to consent to the election of the corporation, such shareholder shall make the consent in the manner provided in paragraph (a) of that section. The election form shall be signed by any person who is authorized to sign the return required to be filed under section 6037 and shall be filed with the service center designated in the instructions applicable to Form 2553.

(b) *Time of making election.* The election must be filed either at any time during the taxable year that immediately precedes the first taxable year for which the election is to be effective, or at any time during that portion of the first taxable year for which the election is to be effective which occurs before the 16th day of the third month of that year (or at any time during that year, if that year does not extend beyond the prescribed period of time). For example, if a corporation begins its first taxable year on January 5, 1983, an election will be effective beginning with the corporation's first taxable year only if the election is made within the period beginning after January 4, 1983, and ending before March 20, 1983. If a corporation makes an election for a taxable year that meets all the requirements provided in this section except that—

(1) The election is made at any time during that portion of that year which occurs after the 15th day of the third month of that year, or

(2) Any person who held stock at any time during that portion of that year which occurs before the time the election is made, and who does not hold stock at the time the election is made, does not consent to the election, the election is treated as being made for the next taxable year. In addition, if a corporation makes an election for a taxable year that meets all the requirements provided in this section, but if the corporation does not meet all the requirements provided in section 1361(b) at any time during that portion of that year which occurs before the time the election is made, the election is treated as being made for the next taxable year provided that the corporation meets all the requirements provided in section 1361(b) at the time the election is made.

§ 18.1362-2 Shareholders' consent.

(a) *Manner of making consent.* The consent of a shareholder to an election by a small business corporation must be made either on Form 2553 or on a separate statement signed by the shareholder in which the shareholder consents to the election of the corporation. The separate statement

must also set forth the name, address, and taxpayer identification number of the corporation and of the shareholder, the number of shares of stock owned by the shareholder, and the date (or dates) on which the stock was acquired. When a shareholder's consent is made on a separate statement, that statement must be attached to the election of the corporation. The shareholder's consent is binding and may not be withdrawn after a valid election is made by the corporation. The election of the corporation is not valid if any consent required by paragraph (b) of this section is not timely filed. See paragraph (c) of this section for the rules relating to extension of time for filing consents.

(b) *Persons required to consent*—(1) *In general.* Each person who is a shareholder (including any person who is treated as a shareholder under section 1361(c)(2)(B)) at the time the election is made must consent to the election of the corporation. If the election is made within the corporation's first taxable year for which it is effective, each person who was a shareholder (including any person who was treated as a shareholder under section 1361(c)(2)(B)) at any time during that portion of that year which occurs before the time the election is made, and who is not a shareholder at the time the election is made, must also consent to the election of the corporation.

(2) *Special rules.* When stock of the corporation is owned by a husband and wife as community property (or the income from which is community property), or is owned by tenants in common, joint tenants, or tenants by the entirety, each person having a community interest in such stock and each tenant in common, joint tenant, and tenant by the entirety must consent to the election. The consent of a minor must be made by the minor or by the legal representative of the minor (or by a natural or an adopted parent of the minor if no legal representative has been appointed). The consent of an estate must be made by an executor or administrator thereof. Where stock of the corporation is held by a trust that is described in section 1361(c)(2)(A)(i) or that is treated as a trust described in that section, each deemed owner who is considered to be a shareholder for purposes of section 1361(b)(1) must consent to the election; in the case of stock that is held by a trust to which that stock was transferred pursuant to the terms of a will, the estate of the testator that is considered to be the shareholder for purposes of section 1361(b)(1) must consent to the election; in the case of stock that is held by a trust that is described in section 1361(c)(2)(A)(iii), each beneficiary who is considered to be a shareholder for purposes of section 1361(b)(1) must consent to the election.

(c) *Extension of time for filing consents.* An election that is timely filed for any taxable year, and that would be valid except for the failure of any shareholder to file a timely consent, is not invalid for such reason if—

(1) It is shown to the satisfaction of the district director or director of the service center with which the corporation files its income tax return that there was reasonable cause for the failure to file such consent and that the interests of the Government will not be jeopardized by treating such election as valid,

(2) Such shareholder files a proper consent to the election within such extended period of time as may be granted by the Internal Revenue Service, and

(3) New consents are filed within such extended period of time as may be granted by the Internal Revenue Service, by all persons who were shareholders of the corporation at any time during the taxable year with respect to which the failure to consent would (but for the provisions of this paragraph) cause the corporation's election to be invalid, and by all persons who were shareholders of the corporation within the period beginning after such taxable year and ending before the date on which an extension of time is granted in accordance with this paragraph.

§ 18.1362-3 Revocation of election.

An election made under section 1362(a) may be revoked by the corporation for any taxable year of the corporation. A revocation can be made only with the consent of shareholders who hold at the time the revocation is made more than one-half of the number of issued and outstanding shares of stock (including nonvoting stock) of the corporation. Such revocation shall be made by the corporation by filing a statement that the corporation revokes the election made under section 1362(a), which statement shall state the number of shares of stock (including nonvoting stock) that is issued and outstanding at the time the revocation is made and shall indicate the date on which the revocation shall be effective. The statement shall be signed by any person authorized to sign the return required to be filed under section 6037 and shall be filed with the service center with which the election was properly filed. In addition, there shall be attached to the statement of revocation a statement of consent, signed by each shareholder who consents to the revocation by the corporation of the election made under section 1362(a) and stating the number of issued and outstanding shares of stock (including nonvoting stock) that is held by each such shareholder at the time the revocation is made, in which each such shareholder consents to the revocation by the corporation of the election made under section 1362(a). For the rules relating to the effective date of a revocation, see section 1362(d)(1) (C) and (D).

§ 18.1362-4 Treatment of S termination year.

In the case of a taxable year of a corporation that is an S termination year (as defined in section 1362(e)(4)), the corporation may elect under section 1362(e)(3) to have the rules provided in section 1362(e)(2) (relating to pro rata allocation of items) not apply. The election can be made only with the consent of all persons who are or were shareholders in the corporation at any time during the S termination year. Such election shall be made by the corporation by filing a statement that the corporation elects under section 1362(e)(3) to have the rules provided in section 1362(e)(2) not apply, which statement shall set forth the cause of the termination and the date thereof. The statement shall be signed by any person authorized to sign the return required to be filed under section 6037 and shall be filed with the return for the short taxable year described in section 1362(e)(1)(B). In addition, there shall be attached to the statement of election a statement of consent, signed by each person who is or was a shareholder in the corporation at any time during the S termination year, in which each such shareholder consents to the corporation making the election under section 1362(e)(3).

§ 18.1377-1 Election to terminate year.

In the case of a taxable year of an S corporation during which any shareholder terminates his or her entire shareholder interest in the corporation, the corporation may elect under section 1377(a)(2) to have the rules provided in section 1377(a)(1) applied as if the taxable year consisted of two taxable years. The election can be made only with the consent of all persons who are or were shareholders in the corporation at any time during such taxable year. Such election shall be made by the corporation by filing a statement that the corporation elects under section 1377(a)(2) to have the rules provided in section 1377(a)(1) applied as if the taxable year consisted of two taxable

years, which statement shall set forth the manner of the termination (*e.g.*, the sale of a shareholder's entire shareholder interest) and the date thereof and shall be filed with the return for such taxable year. The statement to be filed with the return for such taxable year shall be signed by any person authorized to sign the return required to be filed under section 6037. In addition, there shall be attached to the statement of election a statement of consent, signed by each person who is or was a shareholder in the corporation at any time during the taxable year, in which each such shareholder consents to the corporation making the election under section 1377(a)(2).

§ 18.1378–1 Taxable year of S corporation.

(a) *In general.* No corporation may make an election be an S corporation for any taxable year unless the taxable year is a permitted year. In addition, an S corporation shall not change its taxable year to any taxable year other than a permitted year. A permitted year is a taxable year ending on December 31 or is any other taxable year for which the corporation establishes a business purpose (within the meaning of § 1.442–1(b)(1)) to the satisfaction of the Commissioner.

(b) *Corporations qualifying for automatic change of taxable year to a taxable year ending December 31 and corporations adopting a taxable year ending December 31*—(1) *Qualification for automatic change.* Notwithstanding section 442 (relating to change of taxable year) and the regulations thereunder, a corporation may automatically change its taxable year to a taxable year ending on December 31 to comply with the permitted year requirement if all of its principal shareholders have taxable years ending on December 31, or if all of its principal shareholders concurrently change to such taxable year. A shareholder may not change his or her taxable year without securing prior approval from the Commissioner. See section 442 and the regulations thereunder. For purposes of this paragraph, a principal shareholder is a shareholder having 5% or more of the issued and outstanding stock of the corporation. See paragraph (d) of this section in the case where a corporation does not qualify under this subparagraph for an automatic change of its taxable year to a taxable year ending on December 31.

(2) *Effect of filing an election*—(i) *General rule.* The filing of an election to be an S corporation by a corporation that has, prior to making the election, adopted a taxable year ending other than on December 31, and that qualifies under paragraph (b)(1) of this section for an automatic change of its taxable year to a taxable year ending on December 31, shall constitute such automatic change for the first taxable year for which the election is effective. The filing of an election to be an S corporation by a corporation that has not, prior to making the election, adopted a taxable year shall constitute the adoption of a taxable year (or, if the corporation qualifies under paragraph (b)(1) of this section for the automatic change, the change to a taxable year) ending on December 31 for the first taxable year for which the election is effective. Where the taxable year has been changed pursuant to this subdivision and paragraph (b)(1) of this section, the first taxable year for which the election shall be effective shall commence on the first day of the first taxable year for which the election would have been effective if the taxable year had not been changed and shall end on December 31 of that taxable year. See § 18.1362–1(b) for the time within which to make an election to be an S corporation. The rules contained in this subparagraph are inapplicable with respect to any election governed by paragraph (b)(3) of this section or by paragraph (c) of this section.

(ii) *Request to retain (or adopt) a taxable year ending other than December 31.* A request to retain (or adopt) a taxable year ending other than on December 31 by a corporation subject to paragraph (b)(2)(i) of this section shall (except as provided in paragraph (b)(3)(ii) of this paragraph and in paragraph (c) of this section) be made on Form 2553 when the election to be an S corporation is filed. See § 18.1362–1(a) for the manner of making an election to be an S corporation. If such corporation receives permission to retain (or adopt) a taxable year ending other than on December 31, the election shall be effective and the provisions of paragraph (b)(2)(i) of this section shall be inapplicable. Denial of the request shall render the election ineffective unless—

(A) The request is accompanied by another request in which the corporation states that, in the event the request to retain (or adopt) a taxable year ending other than on December 31 is denied, it chooses to be governed by the provisions of paragraph (b)(2)(i) of this section, or

(B) The Commissioner waives the requirement to file the additional request described in paragraph (b)(2)(ii)(A) of this section and permits the corporation to be governed by the provisions of paragraph (b)(2)(i) of this section.

(3) *Elections filed after October 19, 1982, and before January 26, 1983*—(i) *General rule.* The filing of an election to be an S corporation within the period beginning after October 19, 1982, and ending before January 26, 1983, shall constitute—

(A) In the case of a corporation that has, prior to making the election, adopted a taxable year ending other than on December 31, and that qualifies under paragraph (b)(1) of this section for an automatic change of its taxable year to a taxable year ending on December 31, such automatic change for the first taxable year for which the election is effective, provided that a tax return for such first taxable year is filed by the corporation by the following March 15 (including extensions), or

(B) In the case of a corporation that has not, prior to making the election, adopted a taxable year, the adoption of a taxable year (or, if the corporation qualifies under paragraph (b)(1) of this section for the automatic change, the change to a taxable year) ending on December 31 for the first taxable year for which the election is effective, provided that a tax return for such first taxable year is filed by the corporation by the following March 15 (including extensions).

Where the taxable year has been changed pursuant to this subdivision and paragraph (b)(1) of this section, the first taxable year for which the election shall be effective shall commence on the first day of the first taxable year for which the election would have been effective if the taxable year had not been changed and shall end on December 31 of that taxable year. See § 18.1362–1(b) for the time within which to make an election to be an S corporation. The failure to file the tax return required by this subdivision shall render the election to be an S corporation ineffective. The rules contained in this subparagraph are inapplicable with respect to any election governed by paragraph (c) of this section.

(ii) *Request to retain (or adopt) a taxable year ending other than December 31.* If a corporation that is subject to paragraph (b)(3)(i) of this section filed an election to be an S corporation within the period beginning after October 19, 1982, and ending before January 26, 1983, and wishes to retain (or adopt) a taxable year ending other than on December 31, such corporation must (except as provided in paragraph (c) of this section) file before March 16, 1983, a request to retain (or

adopt) such taxable year. The request must also include the name, address, and taxpayer identification number of the corporation and must be filed with the service center with which the corporation files its income tax return. If the corporation receives permission to retain (or adopt) a taxable year ending other than on December 31, the election shall be effective and the provisions of paragraph (b)(3)(i) of this section shall be inapplicable. Denial of the request shall render the election ineffective unless—

(A) The request is accompanied by another request in which the corporation states that, in the event the request to retain (or adopt) a taxable year ending other than on December 31 is denied, it chooses to be governed by the provisions of paragraph (b)(3)(i) of this section, or

(B) The Commissioner waives the requirement to file the additional request described in paragraph (b)(ii)(A) of this section and permits the corporation to be governed by the provisions of paragraph (b)(i) of this section.

(c) *Special rules for certain elections.* A corporation (other than a corporation that was not in existence on January 1, 1982) that filed an election to be an S corporation within the period beginning after October 19, 1982, and ending before the 76th day after the close of its taxable year that ends in calendar year 1982, and that has a taxable year ending on September 30, October 31, or November 30, shall retain its taxable year (unless the corporation changes its taxable year in accordance with this section) and its election shall be effective.

(d) *Elections by corporations not qualifying for automatic change.* An election to be an S corporation made after October 19, 1982, by a corporation that has a taxable year ending other than on December 31, and that does not qualify under paragraph (b)(1) of this section for an automatic change of its taxable year to a taxable year ending on December 31, shall be ineffective unless the corporation has first secured a permitted year. At the request of a corporation wishing to secure a permitted year, the Commissioner shall make a determination that—

(1) The corporation's taxable year is a permitted year, or

(2) The corporation may, under § 1.442–1(b)(1), change its taxable year to a taxable year ending on December 31, or

(3) The corporation may, under §1.442–1(b)(1), change its taxable year to a taxable year ending other than on December 31, which taxable year shall be a permitted year.

§ 18.1379–1 Transitional rules on enactment.

(a) *Prior elections.* Any election that was made under section 1372(a) (as in effect before the enactment of the Subchapter S Revision Act of 1982), and that is still in effect as of the first day of a taxable year beginning in 1983, shall be treated as being an election made under section 1362(a). In addition, any election that was made under section 1371(g)(2) (as in effect before the enactment of that Act), and that is still in effect as of the first day of a taxable year beginning in 1983, shall be treated as being an election made under section 1362(d)(2).

(b) *Prior terminations.* For purposes of section 1362(g), any termination under section 1372(e) (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall not be taken into account.

(c) *Time and manner of making an election under section 6(c)(3)(B) of the Subchapter S Revision Act of 1982.* In the case of a qualified oil corporation (as defined in section 6(c)(3)(B) of the Subchapter S Revision Act of 1982), the corporation may elect under that section of the Act to have the amendments made by the Act not apply and to have subchapter S (as in effect on July 1, 1982), chapter 1 of the Internal Revenue Code of 1954 apply. The election shall be made by the corporation by filing a statement that—

(1) Contains the name, address, and taxpayer identification number of the corporation and of each shareholder,

(2) Identifies the election as an election under section 6(c)(3)(B) of the Subchapter S Revision Act of 1982, and

(3) Provides all information necessary in the judgment of the district director to show that the corporation meets the requirements (other than the requirement of making this election) of a qualified oil corporation.

The statement shall be signed by any person authorized to sign the return required to be filed under section 6037 and by each person who is or was a shareholder in the corporation at any time during the taxable year beginning in 1983 and shall be filed with the return for that taxable year.

§ 18.1379–2 Special rules for all elections, consents, and refusals.

(a) *Additional information required.* If later regulations issued under the section of the Code or of the Subchapter S Revision Act of 1982 under which the election, consent, or refusal was made require the furnishing of information in addition to that which was furnished with the statement of election, consent, or refusal as provided by Part 18 of this Title, and if an office of the Internal Revenue Service requests the taxpayer to provide the additional information, the taxpayer shall furnish the additional information in a statement filed with that office of the Internal Revenue Service within 60 days after the date on which the request is made. This statement shall also—

(1) Contain the name, address, and taxpayer identification number of each party identified in connection with the election, consent, or refusal,

(2) Identify the election, consent, or refusal by reference to the section of the Code or Act under which the election, consent, or refusal was made, and

(3) Specify the scope of the election, consent, or refusal.

If the additional information is not provided within 60 days after the date on which the request is made, the election, consent, or refusal may, at the discretion of the Commissioner, be held invalid.

(b) *State law incorporator.* For purposes of any election, consent, or refusal provided in Part 18 of this Title, any person who is considered to be a shareholder for state law purposes solely by virtue of his or her status as an incorporator shall not be treated as a shareholder.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and section 6(c)(3)(B)(iii) of the Subchapter S Revision Act of 1982 (96 Stat. 1669))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 14, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83–2029 Filed 1–21–83; 10:43 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Correction of previous publication and confirmation of effective date.

SUMMARY: On December 16, 1982, the Parole Commission published new paroling policy guidelines to be effective January 31, 1983. The salient factor score, a facet of those guidelines which had not been under consideration for revision, contained several printer's errors when reprinted in this publication. A correction was published on January 11, 1983 (48 FR 1193). This correction was incomplete, and the complete correction appears below. The Commission now confirms the original effective date notwithstanding the fact that the corrections have appeared in print less than 30 days before the new guidelines will become effective. The Commission finds good cause not to delay the effective date because the subject-matter of the corrected rule is limited to a computation of items of legal record which prisoners have had ample previous notice to study and rectify and because no genuine prejudice would be likely to result from the foreshortened notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION:

1. The Corrected Salient Factor Score

The new paroling policy guidelines (28 CFR 2.20), which contain revisions to the offense severity table previously the subject of notice and public comment, were published at 47 FR 56334 (December 16, 1982), bearing an effective date of January 31, 1983. The salient factor score, which is a part of those guidelines, contained a number of printer's errors even though the score had not been under consideration for revision and was merely being reprinted for the sake of completeness. An incomplete correction was published at 48 FR 1193 (January 11, 1983).

The correct version of the score appears below. (The original errors appeared in both the right and left hand columns of Item A and the right hand column of Item B. The January 11, 1983, correction inadvertently repeated the error in the left hand column of Item A.)

BILLING CODE 4410-01-M

SALIENT FACTOR SCORE (SFS 81)

Item A: PRIOR CONVICTIONS/ADJUDICATIONS (ADULT OR JUVENILE)..... ☐

None ..... = 3
One ..... = 2
Two or three ... = 1
Four or more ... = 0

Item B: PRIOR COMMITMENT(S) OF MORE THAN THIRTY DAYS (ADULT OR JUVENILE).. ☐

None ..... = 2
One or two ..... = 1
Three or more .. = 0

Item C: AGE AT CURRENT OFFENSE/PRIOR COMMITMENTS..... ☐

Age at commencement of the current offense:
26 years of age or more ..... = 2 ***
20-25 years of age ..... = 1 ***
19 years of age or less ..... = 0

***EXCEPTION: If five or more prior commitments of more than thirty days (adult or juvenile), place an "x" here _____ and score this item ..... = 0.

Item D: RECENT COMMITMENT FREE PERIOD (THREE YEARS)..... ☐

No prior commitment of more than thirty days (adult or juvenile) or released to the community from last such commitment at least three years prior to the commencement of the current offense..... = 1

Otherwise ..... = 0

Item E: PROBATION/PAROLE/CONFINEMENT/ESCAPE STATUS VIOLATOR THIS TIME..... ☐

Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time..... = 1

Otherwise ..... = 0

Item F: HEROIN/OPIATE DEPENDENCE..... ☐

No history of heroin/opiate dependence ..... = 1

Otherwise ..... = 0

TOTAL SCORE..... ☐

NOTE: For purposes of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be treated as as conviction, even if a conviction is not formally entered.

BILLING CODE 4410-01-C

2. Confirmation of the Original Effective Date

Although some prisoners may receive their initial hearings before thirty days elapse from the first reappearance in print of the correct salient factor score, such prisoners will not be prejudiced. We note first of all that a correct version of the score was actually distributed and posted throughout the Federal prison system, beginning January 3, 1983, and that this is the score which appears in the current Code of Federal Regulations.

With respect to the published error, the matters in question contain exclusively a mathematical computation of items of legal record, that is, prior criminal convictions and incarcerations. If a prisoner has not adequately researched his own record because of reliance on the incorrect score as published in 47 FR 56334 (December 16, 1982), the appeals provided at 28 CFR 2.25 and 2.26 more than adequately give him time to present any contrary proof to correct the record already furnished to the Commission. Prisoners who simply thought their guideline range would be more lenient will be disabused by actual notice provided in the prehearing review forms commonly sent to prisoners, or at the hearing itself. There is no legal prejudice in discovering the applicable guidelines for the first time at the initial hearing. See *Bowles* v. *Tennant*, 613 F.2d 776 (9th Cir. 1980).

Moreover, each prisoner's prior criminal record is contained in his presentence report, which is disclosed to him or his counsel at sentencing under Rule 32, Federal Rules of Criminal Procedure. Since a defendant's prior record is a self-evidently important concern for the sentencing court, we presume that any supposed errors in the record would have been pointed out to the court well before the defendant came before the Parole Commission, and the presentence report corrected accordingly.

By our calculations, the burden to the agency in delaying the carefully-planned implementation of the revised guidelines outweighs the actual need to ensure a full thirty day delay before the new guidelines become effective. A delay would not give prisoners the benefit of any different score, because the score which appears above and in the Code of Federal Regulations would be that applied. Moreover, in the instance of prisoners favorably affected by changes to the guidelines, a delay would give rise to more complaints of unfairness that the Commission expects to hear from prisoners who had let genuine errors in their criminal records go uncorrected in reliance on the incorrect salient factor score published on December 16, 1982.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners—Probation and parole.

Accordingly, pursuant to 18 U.S.C. 4203(a)(4) and 4204(a)(6), the effective date of the revisions to Title 28 CFR 2.20, published in the **Federal Register** on December 16, 1982, is hereby confirmed as January 31, 1983.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: January 18, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-2290 Filed 1-25-83; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2285-2]

Approval and Promulgation of Implementation Plans; Approval of Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves amendments to Delaware's Regulation No. II—Permits, for the control of air pollution. The amendments were submitted to EPA for approval as a revision to its State Implementation Plan (SIP) to satisfy requirements of the Clean Air Act Amendments of 1977. The revision streamlines procedures for obtaining permits to operate stationary sources of air pollutants.

EFFECTIVE DATE: This action will be effective March 28, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the submittal are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia A. Gaughan

Delaware Department of Natural Resources, and Environmental Control, Air Resources Section, Tatnall Building, P.O. Box 1401, Dover, DE 19901, ATTN: Robert R. French

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

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

Comments should be sent to Mr. Henry J. Sokolowski, P.E. (3AW12) at the EPA Region III address listed above.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Clark (3AW12) at the EPA Region III address listed above, telephone 215/597-9377.

SUPPLEMENTARY INFORMATION: On October 14, 1982, the State of Delaware submitted for EPA approval a revision of its State Implementation Plan (SIP). The revisions consists of amendments to regulation No. II—Permits. The amendments allow operating permits to be issued without an expiration date. Elimination of the expiration date will significantly reduce the paperwork and staff time required by both the applicants and the State in renewing similar permits every three years. The amendments also improve the language of the regulation by deleting obsolete provisions and clarifying ambiguous sections.

Two new exemptions are included in the amended regulation. Operating permits are not required for residential wood-burning stoves or for stationary storage tanks which store only non-volatile liquids and have less than 5,000 gallons capacity. The State has determined, and EPA agrees, that these facilities need not be subject to permit requirements at this time.

The SIP revision was the subject of a public hearing held on August 23, 1982 as required by 40 CFR 51.4. No adverse public comments were presented. The revision satisfies all Federal requirements and is approvable by EPA.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

(42 U.S.C. 7401–7642)

Dated: January 19, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

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

Subpart I—Delaware

In § 52.420, paragraph (c)(30) is added to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(30) A revision submitted by the State of Delaware on October 14, 1982, consisting of amendments to Regulation No. II—Permits.

[FR Doc. 83-2151 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2256-4; NC-003]

Approval and Promulgation of Implementation Plans; North Carolina; Revised SO_2 Emission Limit for Duke-Cliffside

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On December 7, 1982 (47 FR 54934), EPA announced approval of a revised sulfur dioxide (SO_2) emission limit for most fuel-burning sources in North Carolina. Duke Power Company's Cliffside Steam Station was excluded from that rulemaking; it could not be allowed to emit at the revised limit of 2.3 pounds per million British thermal units (#/MMBTU) of heat input because of possible violations of the ambient sulfur oxides standards. The State issued to this source a permit setting a more stringent limit, 2.2 #/MMBTU, and submitted the permit to EPA on September 24, 1982, for approval as a plan revision. EPA finds that the more stringent limit for Duke-Cliffside is adequate to protect the ambient standards and approves this permit. This action is being taken without prior proposal because the issues were fully set out in the notices on the revised North Carolina SO_2 limit.

EFFECTIVE DATE: This action will be effective on March 28, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments

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

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

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

Air Management Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

North Carolina Department of Natural Resources & Community Development, P.O. Box 27687, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond S. Gregory, Air Management Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: EPA approved a revised SO_2 emission limit for certain fuel-burning sources in North Carolina on December 7, 1982 (47 FR 54934). The revision set an emission limit for SO_2 of 2.3 #/MMBTU. The State had excluded Duke Power Company's Cliffside Steam Station from the revision as not being able to emit at the 2.3 #/MMBTU limit without violating the national ambient air quality standards for sulfur oxides. Modeling results indicate that a limit of 2.2 #/MMBTU is adequate to protect the ambient standards in the vicinity of this plant, and North Carolina has issued a permit which requires observance of this limit. The permit was submitted for EPA's approval as a plan revision on September 24, 1982.

EPA's review of the information submitted by North Carolina indicates that the limit adopted for the Cliffside plant is adequate to protect the national ambient standards for sulfur oxides.

Action. Accordingly, EPA today approves the Cliffside permit as a plan revision. Since the issues involved in this action are straightforward and little or no public concern is anticipated, this action is taken without prior proposal. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: January 19, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

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

Subpart II—North Carolina

Section 52.1770 is amended by adding paragraph (c)(33) as follows:

§ 52.1770 Identification of plan.

* * * * *

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

* * *

(33) Permit restricting emissions of SO_2 from the Cliffside Steam Plant of Duke Power Company to 2.2 # per million Btu, submitted on September 24, 1982, by the North Carolina Department of Natural Resources and Community Development.

[FR Doc. 83-2152 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1F2500, 1F2531, 2F2695, 2F2732/R517; PH-FRL 2291-2]

Metalaxyl; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide metalaxyl and its metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested, pursuant to petitions, by the Ciba-Geigy Corporation.

EFFECTIVE DATE: January 26, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA published a notice in the **Federal Register** of June 9, 1981 (46 FR 30563) that announced that the Ciba-Geigy Corporation, Agricultural Division, P.O. Box 11422, Greensboro, NC 27409, had submitted pesticide petition 1F2500 to the Agency proposing that 40 CFR Part 180 be amended by establishing tolerances for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxy methyl-6-methyl)-N-(methyoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the raw agricultural commodities spinach at 10.0 ppm; soybean forage and fodder at 7.0 ppm; green onions at 5.0 ppm; wheat forage and straw at 2.0 ppm; tomatoes at 1.0 ppm; dry bulb onions at 1.0 ppm; kidney of cattle, goats, hogs, horses, poultry, and sheep at 1.0 ppm; broccoli at 0.6 ppm; cabbage at 0.6 ppm; cauliflower at 0.6 ppm; cucumbers at 0.5 ppm; head lettuce at 0.5 ppm; potatoes at 0.5 ppm; soybean grain at 0.5 ppm; melons at 0.3 ppm; liver of cattle, goats, hogs, horses, poultry, and sheep at 0.3 ppm; wheat grain at 0.2 ppm; cottonseed at 0.1 ppm; eggs and meat of poultry (excluding liver and kidney) at 0.05 ppm; meat, fat, and meat byproducts (excluding liver and kidney) at 0.05 ppm; and milk at 0.02 ppm. The petition was subsequently amended (47 FR 26019, June 16, 1982) by increasing the tolerance levels for the raw agricultural commodities cucumbers from 0.5 ppm to 1.0 ppm, green onions from 5.0 ppm to 10.0 ppm, and melons from 0.3 ppm to 1.0 ppm and deleting proposed tolerances on spinach, soybean forage and fodder, wheat forage and straw, broccoli, cabbage, cauliflower, head lettuce, soybean grain and wheat grain. On September 22, 1982 (46 FR 41855) the petition (1F2500) was again amended by decreasing the tolerance levels for the kidney of cattle, goats, hogs, horses, poultry, and sheep from 1.0 ppm to 0.4 ppm and increasing the tolerance levels for dry bulb onions from 1.0 ppm to 3.0 ppm and the liver of cattle, goats, hogs, horses, poultry, and sheep from 0.3 ppm to 0.4 ppm.

EPA published a notice in the **Federal Register** of August 5, 1982 (46 FR 39883) that announced that the Ciba-Geigy Corporation had submitted pesticide petition 1F2531 to the Agency proposing to amend 40 CFR 180 by establishing a tolerance for residues of the fungicide metalaxyl and its metabolites in or on the raw agricultural commodity avocados at 4.0 ppm.

EPA published a notice in the **Federal Register** of September 29, 1982 (47 FR 42805) that announced that the Ciba-Geigy Corporation had submitted pesticide petition 2F2732 proposing to amend 40 CFR Part 180 by establishing a tolerance for the combined residues of the metalaxyl and its metabolites in or on the raw agricultural commodity squash at 1.0 ppm.

EPA published a notice in the **Federal Register** of June 30, 1982 (47 FR 28453) that announced that the Ciba-Geigy Corporation had submitted pesticide petition 2F2695 to the Agency proposing to amend 40 CFR 180 by establishing a tolerance for the residues of the fungicide metalaxyl and its metabolites in or on the agricultural commodities forage grasses, forage legumes, grain crops, seed and pod vegetables (dry or succulent), and peanuts at 0.1 ppm.

There were no comments received in response to the notices of filing.

The data submitted in these petitions and other relevant material have been evaluated. The scientific data considered in support of these tolerances included a 3-month dietary study in rats with no-observed-effect level (NOEL) at 12.5 mg/kg/day (250 ppm), a 90-day dietary study in dogs with a NOEL of 6.25 mg/kg/day (250 ppm), a teratology study in rats with a NOEL of 120 mg/kg/day (highest dose tested), a *salmonella*/mammalian microsome mutagenicity study which was negative for mutagenicity, a mouse dominant lethal study which was negative for mutagenicity, a rabbit teratology with a NOEL of 20 mg/kg/day (highest dose tested), a 3-generation rat reproduction with a NOEL of 62.5 mg/kg/day (1250 ppm), a 6-month oral dog study with a NOEL of 6.25 mg/kg/day (250 ppm), and a 2-year chronic/oncogenic rat feeding study with a NOEL of 2.5 mg/kg/day (50 ppm) with no observed oncogenic effects at the highest dose tested. The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. These tolerances result in a theoretical maximum residue contribution (TMRC) of 0.21542 mg/day (1.5 kg diet) for a 60-kg person and will utilize 14.36 percent of the ADI.

Two related documents [FAP 1H5299/R128] and [FAP1H5299/1R129] establishing food and feed additive regulations respectively in or on various commodities, appear elsewhere in this issue of the **Federal Register**. These food and feed tolerances will result in a TMRC of 0.472 mg/day for a 60-kg person and will utilize 31.47 percent of the ADI.

The metabolism of metalaxyl is adequately understood, and an adequate analytical method, gas chromatography with flame ionization detector or mass spectrometry, is available for enforcement purposes.

The pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information cited above, the Agency has determined

that the establishment of the tolerances in or on the various commodities will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: January 13, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended by adding § 180.408 to read as follows:

§ 180.408 Metalaxyl; tolerances for residues.

Tolerances are established for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the following raw agricultural commodities:

Commodities	Parts Per Million
Avocados	4.0
Cattle, fat	0.4
Cattle, kidney	0.4
Cattle, liver	0.4
Cattle, meat	0.05
Cattle, mbyp (except kidney and liver)	0.05
Cottonseed	0.1
Cucumbers	1.0
Eggs	0.05
Goats, fat	0.4
Goats, kidney	0.4
Goats, liver	0.4
Goats, meat	0.05
Goats, mbyp (except kidney and liver)	0.05
Grain, crops	0.1
Grasses, forage	0.1
Hogs, fat	0.4
Hogs, kidney	0.4
Hogs, liver	0.4
Hogs, meat	0.05
Hogs, mbyp (except kidney and liver)	0.05
Horses, fat	0.4
Horses, kidney	0.4
Horses, liver	0.4
Horses, meat	0.05
Horses, mbyp (except kidney and liver)	0.05
Melons	0.1
Milk	0.02
Legumes, forage	0.1
Onions, dry bulb	3.0
Onions, green	10.0
Peanuts	0.1
Poultry, fat	0.4
Poultry, kidney	0.4
Poultry, meat	0.05
Poultry, mbyp (except kidney and liver)	0.05
Potatoes	0.5
Seed and pod vegetables (dry and succulent)	0.1
Sheep, fat	0.4
Sheep, kidney	0.4
Sheep, liver	0.4
Sheep, meat	0.05
Sheep, mbyp (except kidney and liver)	0.05
Squash	1.0
Tomatoes	1.0

[FR Doc. 83-2136 Filed 1-25-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Parental Notification Requirements Applicable to Projects for Family Planning Services

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The rules below amend the regulations governing the program for family planning services funded under Title X of the Public Health Service Act. The rules implement a 1981 amendment to Title X which requires projects supported by Title X to encourage, to the extent practical, family participation in the provision of project services. The rules require that projects notify the parent or guardian of unemancipated minors seeking family planning services when prescription drugs or devices are provided. In addition, where State law requires parental notification or consent to the provision of family planning services to minors, projects must comply with such law. The rules also remove from existing regulations a provision requiring projects to disregard family income when determining fees to be charged for services to certain minors.

DATE: The rules are effective February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Marjory E. Mecklenburg, Deputy Assistant Secretary for Population Affairs, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 472–9093.

SUPPLEMENTARY INFORMATION: On February 22, 1982, the Secretary of Health and Human Services proposed rules implementing an amendment to Title X effected by Pub. L. 97–35 and clarifying the obligation of grantees to comply with certain applicable State laws. 47 FR 7699. The Secretary's request for public comment on the proposed rules elicited overwhelming response: Over 120,000 individuals and organizations contributed to the public comment by writing letters, signing petitions or sending form cards or letters, and these comments were duly considered. The issues raised by the public reflect this broad base of interest and are, accordingly, extremely diverse. The numerous issues raised are set out below, along with the Department's responses thereto. Also set out, as background, is a brief discussion of the statutory and regulatory framework of the rule, the provisions of the proposed rule, and a general description of the comments submitted on the proposed rule.

I. Background

Statutory and Regulatory Framework

Title X of the Public Health Service Act (42 U.S.C. 300 *et seq.*) establishes a program of Federal financial assistance to public and private nonprofit entities for the provision of voluntary family planning services. Under section 1001(a) of that title, the Secretary may make grants to such entities for projects which will provide a "broad range of acceptable and effective family planning services." Under a 1978 amendment to section 1001(a), projects are required to provide "services to adolescents." The regulations implementing this section provide, among other things, that family planning services will be made available without regard to age or marital status. 42 CFR 59.5(a)(4). They also provide that personal information obtained by the project will be kept confidential except where disclosure is made with the patient's consent, is necessary to provide service to the

patient, or is required by law. 42 CFR 59.11.

On August 13, 1981, Congress amended section 1001(a). Section 931(b)(1) of Pub. L. 97–35 added to section 1001(a) the following provision:

> To the extent practical, entities which receive grants or contracts under this subsection shall encourage family (sic) participation in projects assisted under this subsection.

The Conference Report on Pub. L. 97–35 explains section 931(b)(1) as follows:

> The conferees believe that, while family involvement is not mandated, it is important that families participate in the activities authorized by this title as much as possible. It is the intent of the conferees that grantees will encourage participants in Title X programs to include their families in counseling and involve them in decisions about services. House Rep. No. 97–208, at 799.

The rules below implement this statutory requirement.

Proposed Rules

Under the proposed rules, Title X projects would be required to notify the parents or guardian of an unemancipated minor when prescription drugs or devices are provided to such minor. A Federal definition of the term "unemancipated minor" was proposed for purposes of this requirement. This defintion treats minor age 17 or under as unemancipated generally, but otherwise looks to State law to determine what specific acts, such as marriage or parenthood, constitute acts of emancipation. Projects would also be required to inform the minor, prior to the provision of the service, about the notification requirement. Projects would be required to notify the minor's parents or guardian within 10 working days following the initial provision of services by the project, except when the project director determines that notification would result in physical harm to the minor by the parent or guardian. Projects would be required to keep records of the number of such exceptions, as well as reasons for the determination. Where notification is provided, projects would be required to verify that it was received and to keep records of the notification and verification.

Projects would also be required to comply with any State law requiring that notification be provided to or consent obtained from the parents or guardian of unemancipated minors regarding the provision of family planning services to such minors. Finally, the definition of "low income family" in the current regulations would be changed by eliminating the requirement that projects consider adolescents on the basis of their own resources (rather than their families' resources) for purposes of charging for services.

Public Comment

The publication of the proposed rule was followed by intense public interest in and debate about its provisions. In the months following publication, approximately 60,000 comments were received from individuals, including thousands of teenagers and parents. In addition, approximately 1,200 letters were received from a broad spectrum or organizations, including family planning clinics, State and local governmental agencies, national and local professional groups, church groups and so on. Moreover, approximately 250 forms letters, containing about 7,000 signatures, were received on the regulations, and about 50 different types of form postcards were sent in by some 10–20,000 individuals. Finally, approximately 400 petitions were submitted, many containing thousands of signatures.

The numbers and the nature of many of the comments make a precise count of the comment "for" and "against" the proposed rule impossible. For example, while many comments opposed the proposed rules as requiring too much intervention in the family planning decisions of minors, others opposed them on the ground that they did not require enough. In general, however, the public comment disclosed both a wide base of support for, as well as opposition to, the policies of the proposed rules. The Department has carefully considered the specific issues raised by the comments, and they are discussed below. However, the Department's ultimate concern is with the merits of the points made in the comments rather than the number of times they were made. Therefore, we do not discuss, except in general terms, the extent of support for particular points made by the public comment.

The public comment submitted was generally of two types. On the one hand, the majority of the public commenters either criticized or commended the proposed rule on the basis of issues that underlie the rule as a whole and supported their positions by: citing personal experiences; arguing on moral, philosophical or religious grounds; utilizing medical reports and social science data; or presenting legal arguments. For example, numerous comments contained projections on the proposed rule's probable effect on teenage pregnancy, abortion, sexual behavior, and welfare dependency. Similarly, a number of comments raised legal issues about the overall approach of the proposed rules, such as the right of privacy of minors, custodial rights of parents, and the confidentiality of the doctor-patient relationship. A minority of the commenters, on the other hand, addressed issues raised by specific provisions of the proposed rules. For example, a number of particular concerns were raised about the verification provision, including problems of ambiguity, cost and potential for fraud. The discussion below initially examines and responds to the general comments that apply to the rules as a whole. We then examine and respond to the more specific concerns voiced with respect to particular provisions of the proposed rules. However, because of the vast number of issues raised and the permutations and combinations of these issues, we have not attempted to address every issue specifically. Instead, where possible, we have grouped together similar issues and addressed what we believe to be the central questions they raise.

II. Comments on the Rule as a Whole

Constitutional Issues

A great number of commenters challenged the constitutional basis of the notification provisions of the proposed regulations. These commenters contended that a notification requirement would violate a minor's right to unrestricted access to contraceptives and constitutional right to privacy. The commenters cited, in support of their challenge, cases such as *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972), *Carey* v. *Population Services International*, 431 U.S. 678 (1977), and *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52 (1976). Many commenters also challenged the constitutionality of the regulations because they assertedly failed to distinguish between "mature" and "immature" minors, citing principally the case of *H.L.* v. *Matheson*, 450 U.S. 398 (1981).

It is the conclusion of the Department that these cases are inapposite, since they all deal with attempts by governmental entities to regulate *access* to family planning services. Two Supreme Court cases have distinguished between situations in which government sought to prohibit or regulate access to family planning services and those in which government was making choices as to the kinds of behavior it would actively assist, concluding that in the latter situations the "compelling interest" test enunciated in the former

cases was inapplicable. *Maher* v. *Roe*, 432 U.S. 464 (1977), *Harris* v. *McRae*, 448 U.S. 297 (1980). The Supreme Court in *Harris*, in upholding the right of the Federal Government to limit funding for abortion services, said:

> It cannot be that because government may not prohibit contraceptives * * * government therefore has an affirmative constitutional obligation to ensure that all persons have the financial resources to obtain contraceptives. To translate the limitations on governmental power implicit in the Due Process Clause into an affirmative funding obligation would require Congress to subsidize the medically necessary abortion of an indigent woman even if Congress has not enacted * * * Medicaid * * *. Nothing in the Due Process Clause supports such an extraordinary result. Whether freedom of choice that is constitutionally protected warrants federal subsidization *is a question for Congress to answer, not a matter of constitutional entitlement.* (Emphasis added).

The instant regulation does not prohibit access to contraceptive services. Rather, it implements a Federal assistance program, *i.e.*, Title X of the Public Health Service Act, 42 U.S.C. 300(a), by giving specific meaning to the conditions Congress has established for provision of the assistance. As such, the constitutional issue involved here is indistinguishable from the primary issue in the *Harris* case. Thus, the Department need establish only that there is a rational basis for the "notification" requirements of the proposed regulation. Governmental concern with the health of the minor patient and concern for the proper role of the family in the provision of certain family planning services constitute a clear and rational basis for the regulation. Further, even in the context of the Federal assistance program, the regulation would not act as a bar to funded services. The parental notification requirement would apply only to requests for prescription drugs or devices, and even these would be available immediately, with parental notification being required only in the 10 days following the provision of services.

The proposed regulation was also frequently challenged as discriminating unconstitutionally on the basis of gender. Many commenters observed that the notification requirement applied only to prescription drugs and devices which, at this time, are used only by women. A few commenters who made this point cited *Craig* v. *Boren*, 429 U.S. 190 (1976). The Department does not consider the distinction made in the notification provisions of the regulation, *i.e.*, prescription drugs or devices, to be gender-based discrimination, which would fall within the Supreme Court's analysis in *Craig* v. *Boren*. In that case, the Court struck down as violating the equal protection clause of the Constitution a State statute setting a higher minimum age for the sale of beer to males than the age applicable to females. The Court found that this explicit gender-based distinction could not stand. The notification requirement, on the other hand, is a gender-neutral distinction focusing on health risks. As such, the regulation falls well within the test established in the case *Geduldig* v. *Aiello*, 417 U.S. 484 (1974), in which the Supreme Court upheld a State disability insurance law which excluded benefits for certain pregnancy related services. In upholding the law, the Court said:

> While it is true that only women can become pregnant, it does not follow that every legislative classification concerning pregnancy is a sex-based classification * * *. Absent a showing that distinction involving pregnancy are mere pretexts designed to effect an invidious discrimination against the members of one sex or the other, lawmakers are constitutionally free to include or exclude pregnancy from the coverage of legislation such as this on any reasonable basis, just as with respect to any other physical condition. *Geduldig* at 496, footnote 20.

The reasoning in *Geduldig* clearly applies to the proposed notification provisions: the "prescription" classification applies equally to men and women; there is (and can be) no evidence produced to establish that the classification is a pretext to effect an invidious discrimination; and the underlying considerations, *i.e.*, the health and safety of minors and concern for family involvement, establish clear and rational basis for the classification. Furthermore, as has already been noted, non-prescription contraceptive services are available to minor women without notification, and, unlike the total exclusion of benefits in *Geduldig*, prescription services will still be provided, subject only to a subsequent parental notification.

Legislative Intent

A great many commenters asserted that both the notification provisions in § 59.5(a)(12)(i) and the provisions requiring adherence to applicable State law in § 59.5(a)(12)(ii) are inconsistent with Title X. These commenters make the following points:

1. The basic authorizing legislation provides that projects shall offer a broad range of services without limitation.

2. The authorizing legislation was amended in 1978 expressly to require that services be provided to adolescents, and there is no qualifying language which would support the attachment of notification or consent requirements.

3. Congress has previously rejected attempts to amend the authorizing legislation by attaching to it parental notification or consent requirements. Commenters cite in particular the "Volkmer Amendment" which was proposed but not enacted in 1978.

4. Although section 1001(a) of the Public Health Service Act was amended in 1981 to add the requirement that "(t)o the extent practical, entities * * * shall encourage family participation in projects * * *", the amendment was not intended to mandate family involvement but merely to encourage such involvement.

The problem with the first three of these comments is that they seek to interpret individual parts of the statute or individual bits of legislative history without consideration of the course of statutory development. It is true that section 1001(a) requires projects to provide a broad range of services and requires that services be provided to adolescents. It is also true that Congress did not act favorably on previous proposals to add parental notification requirements to section 1001 (a). However, the simple fact is that Congress ultimately did amend section 1001(a) in 1981 to include a requirement that projects encourage family participation to the extent practical and in so doing signaled a change in direction. It is on the basis of this amendment that the notification provisions of the regulation have been proposed and it is in the light of this amendment and its legislative history that one must judge the propriety of the notification provisions, not the legislative history surrounding defeated legislative proposals or interpretations of the statute prior to the 1981 amendment. The significant legislative history to the 1981 amendment is contained in the Conference Committee report, which provides:

> The conferees believe that while family involvement is not mandated, it is important that families participate in the activity authorized by this title as much as possible. It is the intent of the Congress that grantees will encourage participants in Title X programs to include their families in counseling and involve them in discussions about services. H.R. Rep. No. 97-208, 97th Cong. 1st Sess. 799 (1981).

The Department feels that the notification provisions in the proposed regulation strike a desirable balance between the requirement that adolescents receive services and the requirement that family participation be encouraged to the extent practical. Unlike the Volkmer Amendment, the Congressional disapproval of which was cited by some commenters, these provisions do not require parental

notification before services may be provided. Nor do they *mandate* family involvement. They do no more than provide an opportunity for family involvement by having projects advise parents that their children have received prescription drugs or devices. Furthermore, by limiting the applicability to prescription drugs and devices, notification is required in an area in which the relevant health considerations make parental involvement particularly appropriate. Accordingly, it is the conclusion of the Department that the notification requirements are consistent with the provisions of section 1001(a) as amended and the relevant legislative history.

Many commenters also challenged the provision of proposed § 59.5(a)(12)(ii) as being inconsistent with the 1981 amendment and in particular the legislative history contained in the conference report. Those commenters misperceive the principal purpose of § 59.5(a)(12)(ii). That section was intended to rationalize an increasingly confusing situation created by, on the one hand § 59.5(a)(4), which prohibits projects from discrimination on the basis of age, and on the other hand, the eventuality of States enacting laws imposing parental consent or notification requirements. The Department has been called on to make complex distinctions to recognize the constraints imposed by § 59.5(a)(4) while at the same time paying deference to State laws in the area of consent to certain health and medical services, an area traditionally within the jurisdiction of the States. Section 59.5(a)(12)(ii) will resolve that tension by providing that notwithstanding the provisions of § 59.5(a)(4), projects must comply with State laws regarding parental consent and notification. It is the opinion of the Department that there is nothing in the statute or legislative history which would require the program to be operated in such a way as to preempt or supersede otherwise valid State law, particularly with regard to a matter so traditionally a State concern. Nor does the above-quoted conference report language lead one to a different conclusion. To the extent that the language is relevant in interpreting the statute, it is a constraint upon the imposition of a mandate *by the Federal government.* It does not evince any view on whether the Federal government may, in its implementation of Title X, recognize otherwise applicable State law in this area. To conclude otherwise would be to require the Federal government to supersede or preempt State law in order to implement the Title X program, a result which certainly is not compelled by the statute and legislative history.

Rights of Minors

A large number of commenters argued that the parental notification rule would unfairly infringe upon the minor's right of privacy. (For a discussion of comments arguing that this would be an unconstitutional infringement, see the section above on constitutional issues.) The argument advanced by these commenters, among whom were many teenagers, is that they should have the right to obtain family planning services in complete confidentiality and that their interest in doing so should outweigh the interest of parents in being notified of their receipt of these services.

Many commenters objected to the rule on the grounds that parental notification would constitute a breach of the confidentiality of the doctor-patient relationship. Several argued that the rule would conflict with State and Federal confidentiality requirements. Others argued that it would require physicians to breach applicable codes of ethics (e.g., the Hippocratic oath) and accepted medical practice. Several argued that the requirement that projects make the required records on parental notification available to the Secretary for inspection would be a further violation of the patient's right of confidentiality.

In response to these concerns, we call attention to the requirement that the project advise the minor of the notification requirement before providing services. The minor will then be able to decide whether to accept services subject to subsequent parental notification. By accepting the services, the minor will be in effect consenting to the notification (assuming that the exception for physical harm to the minor does not apply). In light of this consent by the minor, we conclude that the regulation does not improperly infringe on the minor's right to privacy, the confidentiality of the minor's records, or the doctor-patient relationship. Nor, for this reason, would the rule cause the physician to breach ethical code or accepted medical practice standards. As to the Department's right to inspect records, we would seek only sufficient information to determine that the regulatory requirements are being followed. This Department must retain the right to inspect records for all of its grantees providing health services, so that we can determine whether the grantees are complying with applicable requirements. This point is clearly made in existing regulations, see 45 CFR Part 74, Subpart J.

A number of commenters claimed that the proposed rule on notification would conflict with the laws of many States under which minors, including unemancipated minors, may consent on their own behalf to the receipt of family planning services. We do not see this conflict. Projects must comply with State law regarding parental consent, but where State law does not require that a parent consent, the regulation does not do so either.

Discrimination

The proposed rule was challenged by many commenters as leading to discrimination against minors on a number of grounds: gender, age, and income. Many commenters opposing the regulation argued that the regulation discriminates against women, since only females use prescription contraception. Several commenters cited the legislative history of Title X to argue that Congress never intended such alleged gender discrimination. They also quoted the Department's regulations implementing Title X, which stipulate that clinics must "provide services without regard to religion, creed, age, *sex,* parity or marital status" 42 CFR 59.5(a)(4). (Emphasis added). (As to the argument of some commenters that this alleged gender discrimination is unconstitutional, see the discussion above of constitutional issues.) Finally, with respect to gender discrimination, several commenters remarked that exemption of treatment for sexually transmitted diseases (STD) from parental notification essentially allows Title X monies to protect young men from adverse consequences of sexual activity without parental notification while protecting young women from only one of the adverse consequences of sexual activity without parental notification.

The Department is not persuaded that the regulations will constitute improper discrimination on the basis of sex. The rule on its face is gender-neutral in that its operation is triggered only by the provision of prescription drugs and devices without regard to gender. The notification requirement applies only with respect to drugs and devices that may be obtained only with a prescription. If contraceptives for male use become available that would require prescriptions, they too would fall within the scope of the rule.

We also believe that the notification requirement does not conflict with the requirement of § 59.5(a)(4) that services be provided without regard to sex. First, the notification requirement does not result in the denial of requested services

in any case. Second, it does not make distinctions on the basis of sex. Third, even if it were viewed as doing so, as a regulatory requirement applicable to specific situations, it must be complied with even if a separate, general regulatory provision may be viewed as supporting a contrary approach in situations not covered by the specific requirement.

With respect to the exception for treatment of STD, we find the argument even less convincing. This exception applies to males and females alike and thus demonstrates that the regulation is not based on gender distinctions. The exception, like the general rule, was developed on the basis of factors wholly apart from the issue of gender, *i.e.*, public health considerations.

A number of commenters noted that, in practice, the notification requirement will affect only females and argued that the regulation should therefore be broadened to include non-prescription contraceptives as well. They maintained that the goal of family involvement would be better served if parents were notified of their sons' sexual activity as well as that of their daughters. While we agree that family involvement is to be encouraged in all cases, we have concluded that the distinctions based on the use of prescriptions reaches the situations where the parental involvement is likely to be of the most significant value.

Several commenters alleged that the regulation would require discrimination on the basis of age in a manner that violates the Age Discrimination Act of 1975, 42 U.S.C. 6101, *et seq.*, and the government-wide implementing regulations published by the Department, 45 CFR Part 90. That Act and its implementing regulations create an exception for cases where age is used as a measure of some other characteristic which is sought to be ascertained in order to achieve a legitimate program purpose and which cannot practically be ascertained on an individual basis. In this regulation, the Department is using age as a measure of an unemancipated minor's ability to make important decisions with respect to prescription drugs whose health consequences are potentially significant, in order to encourage family participation, as mandated by statute, in those decisions about family planning services which we have concluded will most benefit from parental involvement. Given the nature of the program and the large number of minors served, we conclude that determinations of their ability to make these decisions cannot practically be made on an individual basis.

Some commenters claimed that the proposed amendment to the definition of "low income family" would result in discrimination against minors on the basis of income. We address this issue more fully below, but note here that the amendment simply removes a requirement that projects consider only a minor's income and not consider family resources. This simply puts minors on the same footing as all other applicants for services.

The Rights of Parents

Of those supporting the regulation, many commenters argued that the custodial rights and responsibilities of parents outweigh minors' interests in confidential family planning services. These commenters believed that the proposed regulations are at least a beginning step toward re-establishing legitimate parental control over their children's health care. Many of these commenters pointed out that parents are the ones who are morally, legally, and financially responsible for their minor children, and that these parental responsibilities should not be undermined by federally-funded programs which ignore parental rights.

Of those supporting the regulation as a means of reasserting parental rights, a small number of commenters developed constitutional and legal arguments. While acknowledging that minors have constitutionally protected rights, they cited case law for the proposition that parents also have constitutionally guaranteed and protected rights which establish their broad authority over their minor children. These commenters argued that parental notification will aid in re-establishing these parental rights. Further, some commenters argued that while minors enjoy a constitutional right to privacy just as adults do, the proposed regulations would not violate the minor's right to privacy. As with every other constitutional right, the right to privacy protects an individual against government intrusion into his or her private affairs. According to these commenters, a right of a dependent minor to keep his or her affairs private from parents does not exist.

Some commenters requested that the regulation be revised to require parental notification prior to the provision of service rather than within 10 days following the provision of prescription contraceptives. This change in timing of notification would make it possible for the parents to discuss the decision regarding contraceptive use with the minor before it occured, opening up the possibility that the parents might be able to dissuade the minor from being sexually active. In addition, the commenters asserted, by talking to the minor in advance, parents would have the opportunity to relate relevant family medical information that should be brought to the attention of the medical personnel dispensing prescription contraceptives. A few commenters questioned whether parental notification procedures were to be followed by the project at any subsequent clinic visits by minor after the initial visit.

As we noted in the preamble to the proposed rule, to require prior notification could unduly delay or otherwise restrict access to services for adolescents, contrary to the statute's policy. Thus, we have not adopted the prior notification requirement. We believe that the family participation that may follow the notification that is required will permit parents to accomplish the goals described by the commenters. As to the question about subsequent clinic visits, the regulation explicitly prohibits the project from dispensing additional prescription drugs or devices if it cannot verify that notification of the first prescription service was received. Conversely, where the project can so verify, no further notification is required.

Some commenters, including a number of parents, requested that the regulation be revised to require parental consent to the provision of prescription drugs and devices. We conclude that such a requirement would not maintain the proper Federal balance between the competing concerns of the statute that (1) services be provided to adolescents, and (2) family participation be encouraged. Accordingly, we have not adopted this proposal.

Family Participation

There was a wide divergence of views among the comments received regarding the choice of the parental notification requirement as the mechanism for encouraging family participation. Those who favored the regulation claimed that family relationships would improve. They maintained that parents and teenagers would communicate more freely because notification would make them aware of how important it is to discuss these matters in the home. This awareness, they argued, would lead in turn to more responsible behavior on the part of the parents as well as the adolescent. Teenagers may realize that parents can be sources of information, support and guidance, and the guilt caused by the minor's secrecy over obtaining contraceptives may be eliminated. Some felt family

relationships would improve because authority and responsibility would return to the parents.

Many opposed to the regulation claimed that notification would negatively affect family relationships. Parents may feel hurt that the child did not confide in them. Parents, upset about adolescent sexuality, may think the government has reprimanded them. A variety of commenters thought parents may be quite angry when they learn that their child is sexually active. They may restrict or punish the child verbally or physically, or deny the child food and shelter. They may also direct hostility toward their child's sex partner.

Some letters also speculated that the teenager would shut off all communication with parents. Teenagers who are frightened by the initial outburst of parents may do something rash, such as run away. Other siblings, whose movement may also be restricted by parents as a result of notification, may be upset with the teenager who went to the family planning clinic.

The Department recognizes that this diversity of opinion may well reflect the different possible outcomes of the parental notification requirement. Nevertheless, the Department has a responsibility to ensure that projects take specific steps to implement the statutory mandate that family participation be encouraged, and we have concluded that the approach set forth in the regulation is reasonably designed to achieve that end. That in some cases the notification may lead to some of the adverse consequences predicted by commenters does not alter the fact that the encouragement of family participation has been mandated by Congress, nor is it inconsistent with our conclusion that the benefits of the rule outweigh these potential disadvantages.

Many of the letters opposed to the regulations also acknowledged the need for parental involvement but viewed the proposal as unnecessary or counter-productive. Comments from health care providers said that local and national survey data indicated that over half of the adolescent patients already tell their parents of their use of clinic services. A few comments cited surveys saying that most of clinics have programs to involve parents.

The Department is encouraged by the reports of these comments that many family planning clinics recognize the value of parental involvement. The fact that some parents are already involved should minimize the adjustments clinics will need to make to comply with the regulations, but does not lessen the importance of notifying parents when their unemancipated minor children receive prescription contraceptives. Comments that concluded the regulation is unnecessary because over half of the minor girls already tell their parents fail to recognize the benefits that the notification will bring to those families in which the parents are not involved.

Effects of Notification on Minors

The issue most frequently raised regarding parental notification was the effect that notification would have on the minor. The different effects predicted range from decreased sexual activity to increases in pregnancy and abortion rates, from more consistent use of contraceptives to the use of less effective contraceptives or none at all. Various studies and publications were cited to support different predictions. Some commenters extrapolated from their predictions of individual behavior to develop predicted societal costs of the notification requirement. We summarize below the various predictions made by the commenters.

Adolescent sexual activity was a pervasive theme of the public comment. Of those supporting the regulation, many predicted that sexual activity will decrease. Some said that the notification would lead to communication between parents and the adolescent, and, as a result, the adolescent would decide to abstain. Others speculated that the fear of notification alone will cause the teenagers to abstain.

A few commenters predicted, on the other hand, that adolescent sexual activity will increase as a result of the regulation. Some writers thought that fear of punishment will lead to less communication with both parents and family planning counselors, and claimed that the resulting lack of information will lead to increased adolescent sexual activity. A few thought sexual activity will increase because the regulation "penalizes" the adolescent who takes responsibility for her actions, making it more likely that the adolescent will behave irresponsibly.

Many of the commenters felt that the regulation will not affect adolescent sexual activity. Some writers thought teenagers will go to private physicians or clinics that do not receive Title X funds so that they can continue to have prescription contraceptives and remain sexually active. Others maintained that the sexually active teenager will rely on non-prescription contraceptives that can be obtained without parental notification. Quite a few of the commenters speculated that adolescents will simply find other means of getting prescription contraceptives, such as the black market or the use of bogus identification. Writers frequently speculated that adolescents will be sexually active without using contraception.

The most common criticism leveled against the regulation was that it will cause an increase in adolescent pregnancies and abortions. These letters assumed that parental notification constitutes a barrier to adolescents receiving contraceptive services. Some mention that, for example, low-income girls who are dependent on federally-funded family planning services will not seek birth control information because the services are not confidential, and that pregnancy among these girls will increase because they will turn to less effective birth control methods or use none at all.

Many of these commenters based these views on Torres, *et al.*, "Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services," in *Family Planning Perspectives* (1980). This study of unmarried female teenagers served by family planning clinics claimed that 54 percent thought their parents knew of their visit to the clinic and another 5 percent were not sure. The study claimed that if parental notification were required, 77 percent of the total would continue to use the clinic and 23 percent would not. This latter class was comprised of 15 percent who would continue sexual activity but use a non-prescription contraceptive method, 4 percent who would do so with no contraceptive method, 2 percent who would abstain, and 2 percent undecided. The study then predicted that 33,000 additional pregnancies per year would result from a parental notification requirement, and that 14,000 of these pregnancies would end in induced abortions. A few commenters based their predictions regarding increases in pregnancies on local clinic data or personal observations.

Building on these and similar assumptions, many commenters claimed that the affected unemancipated minors will face adverse health consequences. Comments frequently cited the health risks of pregnancy and childbirth as substantially exceeding those of using oral contraceptives. Other commenters speculated that many adolescents will forgo visiting family planning clinics because of the notification requirement, and that as a result health problems such as sexually transmitted diseases, pelvic inflammatory disease, and cervical abnormalities will go undetected. Still other commenters claimed that the psychological health of adolescents will be adversely affected

by the projected increase in pregnancies and that this will be manifested in part by increased suicide attempts.

A large number of commenters who supported the regulation endorsed the view stated by the Department in the preamble to the proposed rules that the health considerations involved the minors' decisions regarding sexual activity and use of prescription drugs and devices justify the imposition of the notification requirement. Many of these writers stated that Federal policy should recognize parental responsibility in an area of their children's lives which has significant health implications. They noted that, while the pill and IUD have been shown to be safe for most women, studies have cautioned against an array of harmful side effects of these methods for some women. Increased risks of ectopic pregnancy, infection of the ovaries and fallopian tubes, and infertility after discontinuance were cited as side effects of IUD use. Such side effects of bloodclotting and stroke in connection with oral contraceptive use also were of concern to these commenters.

The commenters in favor of parental notification argued that informing parents of their children's use of contraceptive drugs or devices would enable them to monitor for any possible occurrence of these side effects. The minor would have the benefit of counsel from a concerned adult who might have even greater familiarity with the minor's medical history than would the minor. Furthermore, if the minor followed a common pattern and failed to return to the family planning clinic after the initial visit (as much as 50 percent of the time, according to the HHS Inspector General's Service Delivery Assessment (SDA) of Family Planning Services Teenagers Report of 1978 which was cited by several commenters), the benefit of professional surveillance would be lost as well. These writers thought that if parents were involved from the beginning, the minor would receive help in evaluating any health effects that might occur from using prescription contraceptives and support for seeking medical attention when needed. These commenters contended that it would be less likely that the adolescent would discontinue contraception at the first sign of complications or be inconsistent in the ongoing use of prescription contraceptives, because an interested person, who would support the minor in acting prudently, would be available for guidance.

On the other hand, many writers questioned whether the parental notification regulations are justified on health grounds and urged an examination of the comparative risks to life and health from use of the IUD or pill and from pregnancy. For example, some cited information from the FDA oral contraceptive patient labeling insert to the effect that the risk of death associated with pregnancy and childbirth among teenagers is significantly higher than the risk of death associated with the use of the oral contraceptives. Others maintained that the risks associated with pregnancy and childbirth also exceed those associated with the use of other contraceptive methods.

A few writers pointed to the existence of studies indicating that the most common medical problems associated with the use of oral contraceptives are not problems of teenage pill users. A few other writers stated that there are health benefits for teenagers associated with oral contraceptive use. These writers also argued that current departmental guidelines for projects already provide adequate medical protection for minors receiving prescription contraceptives.

Some of the commenters who objected to the proposed rule claimed that parental involvement does not increase consistency in contraceptive use. To support these claims, some of these commenters cited a study by Herceg-Baron and Furstenberg, "Adolescent Contraceptive Use: The Impact of Family Support Systems," in *The Childbearing Decision: Fertility Attitudes and Behavior*, G.L. Fox, ed. (1982), of adolescents treated by family planning clinics.

We have carefully considered the assorted arguments raised regarding the effects on minors of the parental notification requirement. We are not convinced that these effects can reasonably be predicted at this time. The local clinic data and personal observations included in the comment were usually unsystematic and incomplete. Accordingly, the 1980 study by Torres, *et. al.*, continues to be the sole analytical basis for an estimated increase of adolescent pregnancies. We have serious concerns about the applicability and validity of this study. This is the study cited for the proposition that pregnancies, abortions, and births will increase substantially because of the regulation. These projections were relied upon by many as support for their arguments that minors will suffer adverse health effects. We believe that the methodology used in this study was severely flawed. Among our many objections are the following: (1) The analysis fails to account for minors who will go to a private physician or other non-Title X provider to obtain prescription contraceptives; (2) the study includes teenagers who would be considered emancipated under the rule and who would therefore not be subject to parental notification (the study did exclude married teenagers, but did not attempt to address other indicia of emancipation), and (3) the analysis incorrectly estimated rates of contraceptive failures among teenagers which overstated the negative impact of a notification requirement.

We are also unpersuaded by the conclusions advanced by many commenters that parental awareness and involvement do not increase consistency in contraceptive use. The 1982 study by Herceg-Baron and Furstenberg, in particular, is limited and does not comport with the findings reached in several other studies (e.g., G.L. Fox, "The Family's Role in Adolescent Sexual Behavior," in *Teenage Pregnancy in a Family Context: Implications and Policy*, (1981)). Further, in contrast to the author's conclusion, data presented in that 1982 study may very well support the conclusion that mother-daughter communication about sexual activity does lead to more effective use. We also do not believe that sufficient data have been developed to support the contention of some commenters that an assurance of confidentially is one of the major factors, if not *the* major factor, in the decisions of most minors to seek family planning services (see, for example, Zabin and Clark, "Why They Delay: A Study of Teenage Family Planning Clinic Patients," in *Family Planning Perspectives* (1981)).

We also believe that parental notification is justifiable on health grounds. The contention that the regulations will result in a large upswing in the number of teenage pregnancies and an overall deterioration of adolescent health because of the greater risks associated with pregnancy is misguided. As indicated above, we believe estimates of the number of additional pregnancies likely to result have been exaggerated. The contraceptive practices of teenagers may also improve as the result of parental involvement, with teenagers paying greater attention to the health consequences of the various available methods of contraception. New evidence indicates that teenagers who discontinue pill use largely do so because of experienced or feared side effects. (J.W. Ager *et al.*, "Method Discontinuance in Teenage Women:

Implications for Teen Contraceptive Programs," 1982)). Also, some teenagers may be persuaded through conversations with their parents to abstain from sexual activity, removing all health risks associated with such activity. Given these various considerations, the Department does not see a sufficient basis for the claims of commenters that the notification requirement will adversely affect the health of minors.

Another health-related question raised in comments on the regulation pertains to the degree of health risk incurred by teenagers who use prescription contraceptives. The Department recognizes a difference of opinion among medical experts concerning the kinds and degrees of risk for teenagers involved in use of each various prescription contraceptive measures. However, clearly some measure of health risk does exist for contraceptives in the prescription category. The risk of taking oral contraceptives is such, for example, that patient package inserts containing warnings are required by the Federal government. Thus, the Department adheres to the view that parental notification is necessary to protect the health of the child.

In sum, we believe that the Congressional directive for family participation should be effectuated by the parental notification mechanism and that the opportunity that this notification presents for parental involvement in decisions regarding the use by minors of prescription drugs and devices will, on balance, be of benefit to the minors subject to the rule. However, in light of the various predictions concerning the consequences of this rule, we intend to monitor closely the effects of its implementation and to reconsider its appropriateness in light of any reliable data that are developed regarding its effects.

Effects on Family Planning Projects

Many letters from health-care providers complained that procedural costs necessitated by the parental notification provision of the regulations would pose severe hardships, especially after other recent funding cuts, and would detract notably from their ability to deliver services to eligible patients, a high proportion of whom are adolescents. Procedural costs related to notification and verification were detailed by many. Commenters also predicted that the requirement to determine whether a patient is emancipated or whether physical harm may result will generate further cost increases. Beyond the basic costs entailed in carrying out notification and verification, other costs were cited by some writers, such as for special staff training to handle any family conflict that might occur and for special media and public relations campaigns to clarify the regulations. A few commenters pointed out that the practice of clinic-hopping and giving false information each time would add to clinic expenses, since multiple health services are provided at initial visits.

We acknowledge that these requirements impose some additional costs and administrative burdens. We believe, however, that certified mail (with restricted delivery and return receipt requested) ensures parental notification and verification at minimal expense and at the same time effectuates the policies encompassed by the Department's approach to family involvement. The record-keeping is necessary for the Department to be able to monitor project compliance in this area to the same extent that we do for other program requirements. The Department estimates that counseling about the notice, processing the notification and verification, mailing, indirect expenses and the handling of exemptions will not impose substantial costs on projects.

A small number of comments discussed the impact of the regulation on family planning clinics which do not receive federal funds. These comments predicted that the regulation will impose significant costs on those programs. Some argued that the resources of clinics not receiving federal funds are not sufficient to serve the increased number of adolescents who will no longer go to the federally funded clinics. Other commenters argued that the regulation would reduce the number of adolescents seeking services from non-Title clinics, because teenagers will think that the notification requirement applies to all family planning clinics.

The Department views these concerns as highly speculative. We are not persuaded that the requirement will lead to a large shift of unemancipated minors to non-Title X clinics. In any event, we reiterate that this regulation imposes the parental notification requirement only on Title X projects.

Effects on Society

Several of those who opposed the regulation predicted that its implementation would impose major societal costs. They assumed a significant increase in adolescent pregnancies, with attendant costs for prenatal care and post-delivery support. Increased welfare and Medicaid expenditures were also predicted. Some of these letters cited lost human potential when adolescent pregnancies occur, claiming that 80 percent of adolescent mothers drop out of school and have fewer employment opportunities, and therefore have depressed earning and tax-paying potential.

Based as they are on assumptions regarding increases in adolescent pregnancies resulting from the notification requirement, these predictions are at least as conjectural as the underlying assumptions. In addition, they add another layer of assumptions, thus making the predictions even more difficult to accept. The Department will, of course, consider any reliable data that are developed with respect to these concerns and will reevaluate the regulation in light of such data.

III. Comments on Specific Provisions of the Rules

Notification Requirement

Proposed § 59.5(a)(12(i)(A) required that when prescription drugs or devices are provided to an unemancipated minor, the project must notify the minor's parents or guardian that they were provided within 10 working days following their provision. The project was required to tell the minor about the notification requirement prior to the provision of services.

Comment: Some of the specific comments on the notification provision addressed the timing of the notification. Some writers who supported the proposed regulations argued that parental notification should occur prior to the provision of service rather than 10 days following provision in order to enable the parents to discuss the decision regarding contraceptive use with the minor before it was implemented.

Some commenters question *who* must be notified. They asked whether the term "parents" means that both parents always must be notified. Raised as potential problems were cases where children live with only one parent, where both parents are unreachable, or where the teenager lives with neither parent (e.g., runaways, orphans, or immigrant teenagers whose parents are not in this country). Some commenters also argued that the logistical difficulties of notifying both parents would make the rule extremely costly and burdensome. Other urged that only one parent be notified where the two parents might be quite different in their likely reactions to notification of their child's contraceptive use or inquired whether the minor could designate

which parent to notify. Similarly, some commenters argued that siblings or other relatives should be listed as permissible alternates to parents for notification purposes.

Questions were also raised about the method of notification. Commenters criticized the proposed rule as vague, asking if notification could be done by telephone or mail, and if the latter, what type of mail. Some comments pointed out that if certified or registered mail is required, there will be significant costs to the projects in preparing and mailing the letters and handling necessary follow-up. Other pointed out that many parents who work during the day might be unable to receive registered mail, either because they were unwilling to pick it up or because of other problems (such as theft from mailboxes).

Many health professional who commented challenged the notification requirement on the ground that it would require them to violate State statutes requiring that family planning services be provided on a confidential basis. A few providers also stated that, where they provided services to a drug or alcohol abuser, they would be required to violate the Department's confidentiality regulations, 42 CFR Part 2.

Response: As already indicated in our discussion on *Comments on the Rule as a Whole*, the rules below retain the requirement that the notification be made within 10 working days following provision of the prescription drug or device to the patient. As stated above, we continue to believe that a Federal pre-service notification requirement is not consistent with the statute's goal of providing access to services. The 10-day rule will assure that parents can become involved on a timely basis and should serve to provide most of the benefits sought by those who supported notification prior to service. With respect to those commenters who questioned whether the rule would require repeated notifications, the answer is that it does not. Paragraph 59.5(a)(12)(i)(A) by its terms applies only to the "initial" provision of a prescription drug or device and when notification has been verified, no further notice is required for subsequent services.

The Department agrees with the points raised by many commenters concerning the practical difficulty of notifying both parents. Therefore, the term "parent or guardian" has been defined as "a parent or guardian residing with the minor or otherwise exercising ordinary parental functions with respect to the minor." We believe that this change addresses most of the logistical difficulties raised by various commenters. It is also consistent with the policy underlying the rule, in that it is the custodial parent who is likely to be the most concerned with and able to contribute to the minor's decision regarding contraception. As for the comments regarding orphans, we note that many will be covered by the "guardian" provision of the rule. Although we recognize that many runaways may be reluctant to have their parents contacted, it is our view that the Congressional policy of encouraging family involvement applies equally to such cases. Moreover, if the minor became a runaway because of physical abuse by a parent, the exemption of § 59.5(a)(12)(i)(B) would likely apply.

The Department has not accepted the suggestion to expand the class of persons to whom notification may be provided. While we recognize that in some cases siblings or other relatives exercise a quasi-parental influence on minors, we do not believe that it would be appropriate to permit the involvement of such relatives, in effect, to supersede the parent's or guardian's interest vis-a-vis the minor. Moreover, nothing in this rule precludes a minor from seeking the advice of such a relative, should the minor wish to do so.

While the Department, in general, has concluded that projects should be allowed administrative discretion in the implementation of these regulations, the notification and verification provisions are critical and we have decided to modify those provisions to spell out more clearly the kind of process to be used. The regulations as modified require that verification be accomplished by certified mail (with restricted delivery and return receipt requested), or similar evidence of notification (for example, a signed form, if the project has one). While this change leaves the projects with a degree of flexibility, it also provides, by the examples used, a minimum standard for verification. With regard to the record-keeping requirement of § 59.5(a)(12)(i)(D), the type of records kept will be a function of the notification method used.

With respect to the concerns voiced regarding the potential violation by health professionals of State confidentiality statutes, as noted earlier, no notification is undertaken until the minor is advised of the notification and consents to services knowing that notification will occur. Thus, we see no violation of State confidentiality statutes. For the same reason, the notification provision would not require providers to violate the Department's confidentiality regulations.

Verification Requirement

Proposed § 59.5(a)(12)(i)(A) required projects to verify that notification was received. Where the project was unable to verify receipt of the notification, it was prohibited from providing additional prescription drugs or devices to the minor.

Comment: Commenters, both for and against the proposed rules, criticized the verification requirement as unduly vague. Many questioned what methods of verification would suffice: oral acknowledgement, return receipts from registered mail notifications, or written "certificate of notice" signed by parents, minors and health care providers.

Commenters on both sides of the issue also criticized the requirement as too susceptible to fraud. In the case of return mail receipts, some writers pointed out that signatures on these could be forged. Other commenters questioned the degree of proof required in order for the project to verify that the minor's parents in fact received the notification and, on the assumption that some formal proof of identity would be required, stated that the requirement discriminated against persons without such papers.

A number of letters from providers questioned how the verification requirement would be applied. For example, a few writers questioned how parental refusal to acknowledge notification should be handled (how much follow-up effort should be made) and interpreted (i.e., as lack of verified notification, or as *de facto* consent). Similarly, questions were raised concerning what liability clinics would face in responding either positively or negatively to a continued request for prescription contraceptives from an adolescent in the face of parental objection after notification, particularly in cases where IUDs already have been inserted.

Response: The Department agrees with the comments criticizing the proposed verification requirement as too vague and full of loopholes. Therefore, § 59.5(a)(12)(i)(A) now specifies that documentary verification is required. It also provides that where, for example, certified mail is used, it must be done on a restricted delivery, return receipt basis, to assure that the parent or guardian actually receives the notification. A clinic may employ a different method of verification, but, under the rule, it must obtain a "similar form of documentation". That is, the documentation must be reasonably designed to assure that it was signed by the parent or guardian.

As to the situation where verification is not received, the rule is clear on its face that failure to obtain the requisite documentation means that additional prescription services may not be provided. The Department leaves to the judgment of the project personnel how much effort should be made a obtain verification, as such judgments will necessarily have to be made in light of the facts of each case. The question of the liability of a project which receives verification but where the parent indicates that he or she objects to continuation of service is one which is dependent on State law, and is a judgment that projects routinely make in providing services to minors.

Limitation to Prescription Drugs and Devices

Comment: Comments addressing specific provisions frequently criticized the fact that only prescription contraceptives are covered by § 59.5(a)(12)(i)(A). Some argued that parents have the right to know of any and all contraceptives given to their children. A related set of comments urged that nonprescription contraceptives should be included so that parents could be informed about contraceptives being dispensed to male children.

Many comments opposed the Department's singling out of prescription drugs and devices for regulation and challenged the health basis for the classification. These comments frequently pointed out that the health risks of prescription contraceptives are relatively small compared to the risk of pregnancy and argued that the prescription classification would therefore have a negative, rather then positive, impact on the health of teenage women. In this regard, the commenters frequently pointed to the fact that the classification includes the diaphragm, which poses no appreciable health risk. Some argued that use of diaphragms was no more likely to produce long-term consequences than spermicidal form or condoms which, as non-prescription methods, are not covered by the rule.

The prescription was also attacked as discriminating against women, in that it precludes use of all effective methods of female contraception without parental notification but does not preclude analogous male methods without parental notification.

A number of comments were received in support of the rule's limitation to prescription drugs and devices, however. These comments noted that while the pill and IUD have been shown to be safe for most women, studies have cautioned against an array of harmful side effects of these methods for some women.

The commenters favoring the prescription classification also argued that informing parents of their children's use of contraceptive drugs or devices would enable them to monitor for any possible occurrence of these side effects. These writers argued that, if parents were involved from the beginning, the minor would receive help in evaluating any health effects that might occur from using prescription contraceptives and support for seeking medical attention when needed. They also argued that it would be less likely that the adolescent would discontinue contraception at the first sign of complications or be inconsistent in the ongoing use of prescription contraceptives, since the adolescent would be able to discuss sexual activity and contraceptive use with an interested person, who would support acting prudently.

Response: The Department has retained the prescription classification as proposed. We recognize that parents have a legitimate concern in being informed of contraceptive use by their children. However, the statute expresses two competing concerns—providing adolescents with family planning services and encouraging family involvement—which the Department is required to weigh. In our judgment, the health risks generally associated with prescription drugs and devices dictate that steps be taken to promote family involvement in the prescription contraception decision that are otherwise not warranted in the case of nonprescription methods. It may be that after experience with the notification requirement in this critical area, the Department will wish to reconsider whether to broaden (or narrow) its application.

As discussed above, the Department does not agree with the projections made by many commenters as to the increase in teenage pregnancy likely to result from requiring notification of prescription methods. In this regard it should be noted that where a minor objects to notification, the project is free to provide the minor with nonprescription contraceptives and education concerning their use. In any event, it is our belief that the health concerns associated with the use of prescription methods are, as pointed out by many comments and discussed previously, sufficiently significant to justify providing parents with the opportunity to influence the contraceptive choice.

The prescription classification has not been changed to exclude the diaphragm, as urged by many comments. In the Department's view, it is reasonable to defer to the medical judgments made at the State and Federal levels regarding the general health consequences of drugs and devices. See, for example, the safety, and health criteria for prescription drugs set out in 21 USC 353.

As discussed more fully above, the commenters' arguments with respect to gender discrimination are without merit. The prescription classification does not affect all women, just those choosing prescription methods. Moreover, should a male prescription method become available, it would apply to male adolescents also.

Exception for Adverse Physical Harm

Proposed § 59.5(a)(12)(B) provided that a project is not required to comply with the parental notification requirement when "the project director determines that such notification will result in physical harm to the minor by the parents or guardian." The preamble to the proposed rules explains that the exception—

> Was meant to apply to cases where there is evidence of a history of child abuse, sexual abuse, or incest, or where there are other substantial grounds to determine that notification would result in physical harm to the minor by a parent or guardian. The exception does not apply to cases where notification would result in no more than disciplinary actions of an unsubstantial nature. 47 FR 7700.

Comment: The physical harm exception frequently elicited substantial public response. A few commenters supported the exception as consistent with the statute and their views of the custodial rights and responsibilities of parents and the law regulating parent-child relationships.

Most letters, while not rejecting the exception provision, suggested various modifications. A number of these urged that the scope of the exception be broadened in several respects. Several commenters believed that the exception should be broadened to include harm of a mental or emotional nature, arguing that such harm is as damaging to an adolescent as physical harm. Other commenters felt the exception should be broadened to cover cases in which someone other than the parent might harm the child, such as another sibling unhappy because of resulting restrictions on behavior that might be imposed upon that sibling as well. Still other commenters argued that the exemption category was too narrowly drawn because it did not include all potential victims, such as boyfriend who might be subjected to harm from the

minor's father. Others argued that notification would put undue stress on parents themselves.

Many of the comments criticized the exception as vague and ambiguous. Some noted that physical harm was not defined and suggested that the type and degree of physical harm be defined. A number of comments questioned the "substantial/unsubstantial" discussion in the preamble to the proposed rules which is quoted above, pointing out that such terms are vague and open to varying interpretations by project directors. Some letters argued that the lack of precision in the concept of substantial physical harm opened up the possibility that the exception provision could be stretched to, in effect, swallow the rule. For example, a project director might determine that, if the girl's fear of parental notification would lead her to drop contraception while remaining sexually active, the girl should be judged as subject to physical harm in the form of threatened pregnancy. Others argued that the exception did and should cover such physical harm, citing pregnancy of an unwed teenager as an adverse physical health consequence likely to result if parental notification would inhibit the teenager's use of contraception. Still others argued that vagueness of the concept of substantial physical harm would deter project directors from applying the expception even where warranted.

A related concern, based on the substantial physical harm discussion and the requirement that the projects keep records of the factual basis for exception determinations, was with the degree of investigation and documentation required in order for the exception to be applied. A number of commenters assumed that the exception could not be applied unless the project obtained concrete evidence of past physical abuse, such as medical or court records. Several of these commenters thought the prospect of documenting a history of child abuse, sexual abuse, or incest was so burdensome and costly that the provision would never be used. Others argued that the requirement would require modification of the standard informed consent form normally signed by the teenager so that the exempted teenager would know that her record could be opened to inspection as is allegedly provided by § 59.5(a)(12)(i)(D). Others commenters feared that enough information about the child and family might be conveyed to others to constitute a breach of confidentiality if the clinic undertook any form of investigation regarding abuse. Still others said there are ethical and legal obligations to report evidence of child abuse to the proper authorities and that the requirement would therefore add further costs to clinc functioning.

Several letters commented on the difficulty of gauging the probability that physical harm will occur with the needed degree of accuracy, with some concluding the exception provision will not ensure that physical harm will not occur. The question of legal liability in this matter was often raised by lawyers, doctors, and clinic staff. In particular, it was questioned whether the project director is legally responsible if the minor's parent does abuse her as the result of parental notification or if the parents learn that they were not notified because they were labelled as child abusers. Some commenters said the language of the provision should be clarified so that the exception could be granted if only one parent, not both parents, was determined to be a physical threat to the child. A few writers believed there was little need for such an exception provision since those teenagers subject to potential harm from parents would themselves be deterred from seeking services once they learned of the parental notification requirement.

Several comments from State agencies and other umbrella agencies criticized the exception provision as administratively unworkable. Where the grantee is, for example, a State and the project director a State official, it was argued that the project directors would simply be unable to make the requisite determinations.

Response: The Department recognizes the merit of the comments regarding the administrative problems caused by limiting the waiver authority to the project director. We have accordingly revised the exception to provide that a project director may delegate the authority to make such determinations to clinic directors. In our view, such personnel will be better able to make the substantive determinations called for, as they will have direct access to project records and be able to deal with the minor personally. Continuation of the requirement that a record of the factual basis of the determinations be kept will assure no loss of management control as a result of this change. In addition, as suggested by many comments, the exception has been changed to clarify that the harm need come from only one of the minor's parents.

The Department has not broadened the scope of the exception as urged by the comments. The difficulty of determining substantial mental harm and the inherent ambiguity and breadth of the concept lead us to conclude that expanding the exception to include such harm would create administrative problems and would expand the exception to a point where it might vitiate the rule. The suggestions that the exception be expanded to include other potential abusers besides the parent or guardian and other potential victims besides the minor are also rejected. The practical difficulties of determining the likelihood of harm, recognized by so many commenters, obviously increase as the connection between the notification and the projected result becomes more remote. Moreover, we believe that the cases of related abuse forecast by the comments will be exceedingly rare.

We do not accept the arguments that the type of physical harm falling within the exception needs further clarification. As stated in the preamble to the proposed rules, the exception is intended to cover cases where substantial harm is probable. As implicitly acknowledged by numerous comments, health professionals routinely make judgments about whether substantial harm has occurred and is likely to recur. To define further the degree of harm would in our view undesirably limit the flexibility of such professionals to apply the exception to the wide variety of fact situations they are likely to confront.

The comments arguing that the threat of pregnancy comes within the exception misread the exception. As written, the exception applies to harm to the minor *by a parent or guardian.* Presumably, a threat of pregnancy caused by the parent or guardian would not exist except in cases of incest; in those limited cases, as stated in the preamble to the proposed rules, the exception would apply.

The comments challenging the rule as imposing unduly costly investigation and documentation requirements generally misread the preamble statement quoted above. The intent of that statement was to describe the degree of probable physical harm required to come within the exception. While projects are required to describe the factual basis underlying determinations that the exception applies, the rule does not require investigation of medical and court records (which would generally be unavailable in any event). Rather, project or clinic directors are expected to apply the exception based on a reasonable professional judgment that a credible factual basis for it exists. Where the information received by the

project or clinic director is such as to require a report of abuse to the proper authorities, he or she will have to comply with responsibilities under State law. In this regard, we note that the rule does not expose project personnel to a potential liability that does not already exist, as the liability envisioned by the comments is a function of State reporting statutes, not this rule. Moreover, the decisions which the regulations require project personnel to make are not significantly different from many decisions which those professionals must make every day. Furthermore, family planning clinics in many areas presently require parental notification or consent, and we are unaware of any significant liability problem. Therefore, we do not anticipate that the regulations will add to the liability of project officials.

Definition of "Unemancipated Minor"

Proposed § 59.5(a)(12(i)(C) defined "unemancipated minor" for purposes of the notification requirement as "an individual who is age 17 or under and is not, with respect to factors other than age, emancipated under State law." Proposed § 59.5(a)(12)(ii) provided that projects must follow the applicable State law definition of "unemancipated minor" in complying with that requirement.

Comment: Numerous commenters questioned the "unemancipated minor" definition. Many commenters argued that it was inconsistent to defer to State laws that are more restrictive than the proposed definition of emancipation while at the same time overriding the legislative judgment of the 30 States which permit minors to consent to receiving birth control services.

A number of practical questions were raised with the definition, such as whether the word of the patient or official proof of age or emancipated status is required, and if so, what form of proof is required. A small number of comments disputed the Department's contention that the emancipation determination will not present special problems since clinics must currently decide whether minors are emancipated to obtain appropriate consent for provision of medical services. They asserted that, in most States, clinics are not now required to determine emancipation status in order to obtain consent for clinical services.

A few comments criticized the definition on the grounds that the ambiguity and lack of comprehensiveness of many State emancipation laws make the definition difficult to apply. For example, some stated that unmarried minors living with a male partner and receiving no support from parents are considered emancipated for some purposes and not for others under many State laws, or that many State laws do not specify the status of a minor when pregnancy ended in stillbirth. Other queried whether minors considered emancipated for receiving other medical treatment will be considered unemancipated when they seek prescription contraceptives.

A number of concerns were voiced about the potential for fraud inherent in application of the definition. For example, many commenters speculated that minors would lie about their age and obtain bogus identification cards. Other commenters questioned what the responsibility of the project would be for investigating or reporting such fraud.

Finally, many commenters argued that the regulation fails to distinguish between mature and immature minors and thus is unconstitutionally overly broad on its face. This argument is discussed in the section on the constitutional issues above. In addition, several commenters cited national and local clinic surveys which claimed that most unemancipated minors who are patients at family planning clinics are 16–17 years old and therefore probably fall within the mature minor category. Also, younger patients are more likely to have parental consent already, according to these surveys. On the other hand, a small number of comments argued that the mature minor doctrine is seriously flawed. According to these comments, the doctrine is vague and inconsistent, curtails custodial rights of parents without diminishing their responsibilities, and places minors in an undefined position between minority and majority. These commenters also argued that even if the mature minor doctrine applies to the provision of contraceptive services to minors, this application would not negate the right of parents to know what type of medical treatment their children are receiving from public agencies.

Response: The Department has retained § 59.5(a)(12)(i)(C) as proposed. We acknowledge that this definition does not treat as emancipated, for purposes of the notification requirement, minors who under State law can give legally effective consent for limited purposes. As stated by way of explanation of the definition in the preamble to the proposed rules, "if State law would treat persons age 12 or older as emancipated for purposes of consent to medical care, Title X projects would nonetheless have to treat them as unemancipated for purposes of [the notification requirement]." 47 FR at 7699. The definition of "unemancipated minor" does not override the legislative judgment of 30 States, as contended by many commenters. Minors served in those States continue, under the rule below, to be able to consent to receipt of prescription services. Moreover, the State laws in question generally do not deal with the issue of notification (as opposed to consent). Further, it is reasonable to set a Federal age standard to accomplish a Federal statutory purpose. See *Roe* v. *Califano*, 434 F. Supp. 1058 (D. Conn. 1977); *Naylor* v. *Weinberger*, C.A. No. 75–1790 (E.D. Pa. 1976). Additionally, although one section of the rule sets a Federal age of emancipation and another requires adherence to State law, these sections are not inconsistent; rather, they accomplish the goals of encouraging family participation, as required by statute, while clarifying the relationship between Federal and State law.

With respect to the practical concerns raised by the comments, projects should follow their established procedures (which may include requiring some proof of age) for determining when a minor is emancipated. While the concept of emancipation will vary somewhat from State to State and will require judgments on the part of project officials, these determinations are of the sort that project officials often make under current procedures. Accordingly, we conclude that the regulation will not materially add to project burdens.

We disagree with the comments challenging the definition as unconstitutional because it does not provide an exception for mature minors (except, of course, where the minor is emancipated under State law). As stated above, the court cases making the mature/immature distinction arose from governmental attempts to limit access to services and do not apply to situations where the government chooses to impose conditions on the financial assistance it provides. In addition, we believe that a mature minor exception in the definition would present major administrative difficulties for projects and enforcement difficulties for the government.

Exception for Venereal Disease

Proposed § 59.5(a)(12)(i)(E) provided that the notification requirement does not apply where prescription drugs are provided for the treatment of venereal disease. The preamble to the proposed rule stated that the exception for venereal disease "is consistent with the overriding public health necessity of ensuring prevention of infection of others." 47 FR at 7700.

Comment: The majority of the letters commenting on § 59.5(a)(12)(i)(E) used terminology divergent from that employed in this subsection. The term, "sexually-transmitted diseases" or "STD" was suggested instead of "venereal disease."

Comments supporting the exception generally mirrored the public health concerns addressed in the preamble to the proposed rules. Some of these comments pointed out that the safety of others is fostered when STD is treated, while the provision of contraceptives has implications for the physical health of only the patient. Other commenters argued that the prescription of drugs was "therapeutic" in the case of STD but not in the case of contraceptives. It was argued that direct and severe negative consequences to the patient follow non-treatment of STD, while failure to provide prescription contraceptives does not inevitably produce such serious medical complications. Other commenters said that there are no medically acceptable alternatives to immediate administration of therapeutic medication to someone with a potentially curable STD, while the provision of prescription contraceptives is but one of several strategies for preventing pregnancies, e.g., non-prescription methods or abstinence. A few commenters expressed the belief that the exemption had to be included because 50 States, the District of Columbia, and Puerto Rico have laws or regulations which allow minors to be examined and treated for STD without parental consent.

Occasionally, letters argued against the inclusion of an exemption for STD. Some argued that parents have the right to know if their child has STD, while a few others argued that parents should be notified about their child's treatment for STD, since the health risks of the antibiotics prescribed for such diseases are greater than those of prescription contraceptives. A few commenters suggested a modification of the proposed regulations to exempt adolescents being treated for STD from the requirement for parental notification for contraceptive services.

Many letters contained viewpoints about the probable impact of the regulations generally on the incidence of STD among adolescents. Some believed that the regulations would help curtail STD by causing adolescent sexual activity to decrease and by improving contraceptive practices of the sexually active through parental involvement in contraceptive decision-making. More frequently, however, commenters thought that the regulations would result in an upswing of STD among adolescents due to reduced attendance at family planning clinics. Information about STD, checkups for such diseases, and treatment of discovered cases provided at clinics in association with contraceptive services would allegedly be forgone.

A number of commenters argued that the exemption for STD exposed a basic inconsistency in the rule as a whole. They argued that, if the exemption derives from a concern that adolescents would not go to clinics for treatment of STD if parents were notified, the same logic applied to prescription contraceptives. Some also argued that the entire notification requirement should be dropped on the basis that adolescent pregnancy is as major a public health problem as STD is. Opponents of the proposed regulation also asserted that inclusion of the exemption recognizes that sexual activity among adolescents will continue regardless of these regulations.

Response: As suggested by many comments, the terminology of the exemption has been changed from "veneral disease" to "sexually transmitted disease." The exemption otherwise remains unchanged. The Department agrees with the commenters supporting the exemption that materially different considerations apply to the treatment of STD than apply to the prescription contraception decision. We reject the arguments equating the health risk to females of pregnancy to that of STD, as that argument does not consider the relevant risk in its entirety: The public health risk is not limited to females who forego contraception while engaging in sexual activity, but rather extends to the entire sexually active adolescent population. Moreover, as pointed out by many comments, there is no reasonable alternative to treatment in the case of STD, while a number of alternatives exist in the case of the prescription contraception decision. This consideration also justifies, in our view, not notifying the parents of minors being treated for STD.

For all these reasons, the Department also rejects the arguments that the STD exemption constitutes a fundamental inconsistency in the rule as a whole.

Requirement of Compliance With State Law

Proposed § 59.5(a)(12)(ii) required projects to comply with State laws requiring parental notification or consent to the provision of family planning services to persons who are unemancipated minors under State law.

Comment: A sizable minority of the comments discussed this provision of the proposed rule. Many commenters criticized the provision as inconsistent with the policy of "New Federalism" arguing that it would selectively defer to more restrictive State laws while overriding less restrictive State laws providing for confidential family planning services to adolescents. These commenters claimed that 30 States and the District of Columbia authorize minors to obtain family planning services or all health care including family planning on the basis of their own consent. Several of these commenters also claimed that 17 other States have granted physicians the ability to prescribe contraceptives to minors without parental consent or notification if deemed to be in the best interest of the minor. Several commenters asserted that either no State or only one State, Utah, requires parental notification of any kind and that Utah's statute is now subject to a constitutional challenge in light of *H.L. v. Matheson*, 450 U.S. 398 (1981), and is not being enforced.

Other commenters discussed administrative problems of the provision. They argued that unless State statutes providing for confidential family planning services for teenagers are repealed, Title X grantees who also receive State funds may violate either Federal regulations or State statutes in providing contraceptive services to adolescents.

Response: The proposed provision regarding compliance with State law remains unchanged in the rule set forth below. The Department notes that § 59.5(a)(12)(ii) is not inconsistent with State laws; on its face, it defers to State-imposed notification or consent requirements. Nor do we think that there is any inconsistency in deferring only to those State laws which impose parental notification or consent requirements going beyond the Federal mandates. As discussed above, we have deferred to the consent laws of all States, which are unaffected by any part of the rule. We recognize that conflicts may exist to the extent that States enact laws prohibiting parental notification. However, failure to defer to such laws is not indicative of a lack of consistency in the rule as a whole. Rather, in view of our belief that a parental notification requirement best accomplishes the intent of the 1981 amendment of section 1001(a), it would be inconsistent with this view were the Department to defer to contrary State laws.

With respect to the confidentiality problems under State laws, those

problems generally should not arise because the minor will have, in effect, consented to the parental notification. Projects are of course free to obtain written consents to such disclosures from the minors involved if they believe that it is legally advisable.

Definition of Low Income Family

Under the proposed rule, the definition of the term "low income family" at 42 CFR 59.2 would be revised to eliminate the requirement that minors be considered on the basis of their resources rather than those of their families.

Comment: A significant number of comments addressed the change in the definition of "low income family." A number argued that the change is an improvement, since the present definition has the effect of diverting limited Federal monies from those who most need financial assistance. Related comments stated that the change was justified because taxpayers should not subsidize health care which adolescents and their families could pay for themselves. Some of these commenters also argued that the present policy, by providing minors with free or below-cost services, allows them to avoid family participation in family planning services.

Many commenters criticized the change as unfair to poor and minority adolescents and argued that the current definition represents better public policy. It was argued in support of this position that adolescents earn little or no money on their own, the adults are often unwilling to disclose their incomes to children or to institutions, and that most adolescents do not have access to their families' income to pay for family planning services. A few commenters cited studies which found that teenagers' disposable income has little relationship to the income of their parents.

Other commenters discussed a report published by Chamie, *et al.*, "Factors Affecting Adolescents' Use of Family Planning Clinics," *Family Planning Perspectives*, (1982) in which 1,575 minor patients gave reasons why they used family planning clinics rather than private physicians. Answering a multiple-response question, 60 percent of the patients reported that they thought doctors were too expensive, and 33 percent of the patients said that they feared a private physician would inform their parents. These commenters predicted from this data that the change in definition would deter many adolescents from using family planning clinics.

A few comments from clinic staff members discussed the effects of the change in definition by describing the characteristics of their own clinic population. A small number noted that, among their patients, low income minors were likely to inform their parents and that middle class (and usually white) minors were least likely to inform their parents. They predicted that many of these middle class minors would stop using effective contraceptives, become pregnant, and be likely to abort the pregnancy because a child would disrupt their lifestyle and career plans.

Several commenters raised questions regarding the mechanics of the change. They questioned how family income would be assessed: would the word of the minor be acceptable or would a signed statement by the parents or official tax form be required. In addition, when the minor does not live at home or is in the custody of only one parent, they questioned whether the income of both parents must be considered.

Many comments opposing this provision argued that the change in definition would deter minors from seeking family planning services, and thereby violate the Title X provision regarding expanding services to adolescents. In this regard, some argued that the change is, *de facto*, a parental consent requirement, because it requires teenagers who cannot pay for themselves to ascertain and verify parental income prior to service; they alleged that if the parents refuse to disclose the family's income, it would effectively prohibit the teenager's receipt of family planning services, contrary to Congressional intent. They also asserted that the change is inconsistent with the requirement of sec. 1006(c) that "low income family" be defined so as to insure that "economic status shall not be a deterrent to participation" in family planning services.

Response: The proposed change in the definition of "low income family" is retained in the rule below. The Department continues to believe that it is inappropriate to target increasingly scarce Title X dollars to minors who, because of their family circumstances, can pay all or a portion of the cost of services.

The basic question raised by the proposed change is whether it will render family planning services unaffordable by adolescents. The Chamie study cited by many commenters indicates that approximately 50 percent of all adolescents already pay some amount for the services they receive. Moreover, because of its methodology, the study does not, in our view, clearly establish that lessening or eliminating the present subsidy will make the services unaffordable. We do not agree that children of middle class families will forgo family planning services because of the change in the definition of income. In the few cases where parents who are able to help pay for these services refuse to contribute, the clinics, in accordance with the existing language of the current regulations, will be able to adjust the fees. We also note in this regard that projects have significant latitude in establishing charging policy, as there is no Federal requirement that each service provided bear precisely its proportionate share of the project charge structure. Thus, where a project is concerned about the possible effect of the change, it has some flexibility in pricing its services. For these reasons, the low income provision is not a *de facto* consent requirement.

We also disagree with the contentions of opponents of the change that it violates Title X in various respects. For the reasons stated above, we do not think that the change will constitute an economic deterrent to services for adolescents whose families are not low income. Moreover, under section 1006(c), it is the income of the "family", not of the "person" that is relevant; thus, the definition below is more consistent with the statutory language on its face than was the prior definition. In addition, the legislative history of this provision makes clear that the focus of the provision was "medically indigent families" *See* H.R. Rep. No. 94–192 at 104; *see also* S. Rep. No. 94–29 at 93. The definition below is therefore completely consistent with sec. 1006(c).

The change in the definition is also consistent with the 1978 amendment to sec. 1001(a) requiring "services to adolescents." The regulation as a whole continues to require that such services be provided and, where the adolescent is from a low income family, that they be provided at no or reduced charge. The change hardly discriminates against the poorest adolescents, as charged by some comments, since the change in the definition stands to benefit them the most by targeting scarce Federal dollars to them.

With respect to the administrative difficulties foreseen by some commenters, the Department disagrees that these should be materially different from any that now exist. At present, projects are required by section 1006(c) and § 59.2 to make income determinations for the purpose of determining whether patients are "low

income." This requirement continues to apply, and we assume that projects will continue to employ the procedures they have already developed to comply with the existing regulatory requirements.

Executive Order 12291

Some commenters stated that the Department failed to comply with the requirements of Executive Order 12291. As noted in the preamble to the proposed amendments, the Secretary concluded that these amendments are not major rules within the meaning of the Executive Order because they will not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria. We have also considered the section 2 requirements of the Executive Order and, as reflected in the preamble to the notice of proposed rulemaking, have found (1) that we had adequate information concerning the need for and consequences of the requirements imposed by the amendments, (2) that the potential benefits to society outweigh potential costs to society, (3) that the amendments maximize the net benefits to society, and (4) that among the alternatives available to us, the requirements of these amendments involve the least net costs to society.

Paperwork Reduction

These amendments to the Department's Title X regulations contain requirements which have been reviewed and approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. The OMB control number assigned to these requirements is *0937-0111.*

Regulatory Flexibility Analysis

For the reasons stated in the preamble to the proposed rules, the Secretary certifies that an initial regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Part 59

Family planning, Grant programs—health, Youth.

The HHS regulations governing grants for family planning services, 42 CFR Part 59, are hereby revised as set forth below.

Dated: January 5, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: January 7, 1983.

Richard S. Schweiker,

Secretary.

PART 59—[AMENDED]

§ 59.2 [Amended]

1. The last sentence of the definition of "low income family" in 42 CFR 59.2 is revoked and removed.

2. 42 CFR 59.5 is amended by adding thereto the following paragraph (a)(12), to read as follows:

§ 59.5 What requirements must be met by a family planning project?

(a) * * *

(12) Encourage, to the extent practical, family participation in the provision of the project's services to unemancipated minors. Notwithstanding any other requirement of this subpart, a project shall,

(i)(A) When prescription drugs or prescription devices are initially provided by the project to an unemancipated minor, notify a parent or guardian that they were provided, within 10 working days following their provision. The project must tell the minor prior to the provision of services about this notification requirement. As used in this subsection, the phrase "parent or guardian" shall refer to a parent or guardian residing with the minor or otherwise exercising ordinary parental functions with respect to the minor. The project shall verify by certified mail (with restricted delivery and return receipt requested), or other similar form of documentation, that the notification has been received. Where the project is unable to verify that notification was received, the project shall not provide additional prescription drugs or devices to the minor.

(B) A project is not required to comply with paragraph (a)(12)(i)(A) of this section where the project director or clinic head (when specifically so designated by the project director) determines that notification will result in physical harm to the minor by a parent or guardian.

(C) For the purposes of this paragraph (a)(12)(i), an "unemancipated minor" is an individual who is age 17 or under and is not, with respect to factors other than age, emancipated under State law.

(D) The project must keep records of notifications provided pursuant to the first sentence of paragraph (a)(12)(i)(A), and of verification that those notifications were received. The project must also keep records of the number of determinations made under paragraph (a)(12)(i)(B) and the factual basis for such determinations. The project must make records required by this subparagraph available to the Secretary on request.

(E) This paragraph (a)(12)(i) does not apply where prescription drugs are provided for the treatment of sexually transmitted diseases.

(ii) Where State law requires the notification or consent of a parent or guardian to the provision of family planning services to an individual who is an unemancipated minor under State law, provide such services only in the compliance with such law.

(Sec. 215, Public Health Service Act, 58 Stat. 690, 42 U.S.C. 216; Sec. 1006(a), Public Health Service Act, 84 Stat. 1507, 42 U.S.C. 300a-4(a); sec. 931(b)(1) of Pub. L. 97-35, 95 Stat. 570, 42 U.S.C. 300(a))

[FR Doc. 83-2125 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-17-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 82-242; FCC 83-3]

Amendment To Simplify the Equipment Authorization Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is amending its rules to implement a simplified equipment authorization procedure to reduce the time spent by applicants in obtaining approval of their equipment. This procedure is similar to the existing type acceptance and certification procedures except that detailed measurement and construction data are deleted which allows a faster Commission review of the applications and thereby permit marketing at an earlier date.

DATES: Effective February 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Science and Technology, (202) 653-6288.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Communications equipment, Imports, Radio.

Report and Order

Adopted: January 13, 1983.

Released: January 21, 1983.

By the Commission: Commissioner Quello concurring in the result.

1. A Notice of Proposed Rule Making (NPRM) in the above captioned matter was released on May 7, 1982. The deadline for the submission of comments was July 6, 1982 with reply comments due by July 21, 1982. In this proceeding, a new form of equipment authorization, known as "notification", was proposed. Notification would be similar to the existing type acceptance and certification procedures [1] with one major exception: the detailed measurement data that show compliance with the regulations and the construction data (circuit diagrams, photographs, component description, etc.) that are required under the present equipment authorization formats would not normally be required under notification. This deletion of normally submitted data would allow a faster Commission review of the application for an equipment authorization and would thereby permit marketing at an earlier date. The use of the notification procedure and an expanded use of the existing verification procedure will reduce the workload for the Commission allowing it some flexibility in the designation of its resources.

2. The NPRM was explicit in its intent not to review existing standards or to consider the placement of specific equipment under notification. That latter point, the designation of equipment to be included under notification or verification, would be handled in separate rule making proceedings. The intent of this proceeding was to receive comments on the establishment and the organization of the notification procedure. Comments were also requested on the propriety of eliminating the existing equipment authorization procedures should the proposed notification procedure and the existing verification procedure be expanded to such an extent that the other authorization procedures became minimally utilized.

Comment and Discussion

3. Comments were received from 20 organizations with three organizations filing reply comments. No comments were received from individuals. A listing of the organizations filing comments or reply comments is included as Appendix A, attached, along with the abbreviations used in this Order to discuss the material from these organizations. Most of the comments were from organizations involved in either land mobile communications or the manufacture of computing equipment which was recently placed under the equipment authorization program. In many cases, these comments argued either for or against the inclusion of specific equipment under notification or verification. A number of arguments against the adoption of the notification procedure were based on a desire to exclude certain equipment types from consideration under notification. Conversely, a number of comments favoring notification advocated the inclusion of their equipment under the notification procedure, as opposed to inclusion under the present approval category. As stated in paragraph seven of the NPRM, separate proceedings would be used to address the inclusion of particular categories of equipment under notification and no consideration of such comments would be given in this proceeding. Organizations which submitted comments of this nature are invited to restate their concerns in the forthcoming rule making proceedings or request that we incorporate these comments by reference.

4. Three major areas of concern were raised in the comments: (1) the administrative backlog at the Commission's Laboratory in issuing grants of equipment authorization and the subsequent desire of many of the commenters to institute an automatic grant of equipment authorization after a set period of time in the absence of specific action by the Commission; (2) the need to require measurement data or a sample under certain conditions; and (3) the effects of substituting the proposed notification procedure for the present type approval, type acceptance and certification procedures and equipment authorizations, with the possibility of eventually deleting those existing procedures.

Laboratory Backlog/Automatic Grants

5. The administrative backlog for granting equipment authorizations under the present regulations and the desire expressed by some of the commenters to provide for an automatic equipment authorization received the majority of comments. This response is significant as this question was not raised in the NPRM. These comments point out a reason for the notification proposal: a major problem incurred by the Commission in administering the equipment authorization procedures is the time now required to review the application and issue a grant of authorization. The time delay between the receipt of the application and the issuance of the grant appears to have become unacceptably costly to some sectors of industry because of the prohibition against marketing equipment until a grant has been issued. Many of the commenters specifically requested the Commission to pinpoint the delays at each stage of the authorization process to show how notification would reduce the total time delay. Others commented that the technical review which would be deleted under the proposed notification procedure accounts for a delay of only seven to 15 days and that the deletion of this portion of the review would not significantly change the total application processing time.

6. A reduction in the delay in obtaining a grant of equipment authorization to allow earlier marketing is the principal benefit expected of the notification procedure. This Commission is of the opinion that, a grant of notification could be issued within a significantly shorter period than the 30 to 90 days (and in some cases, even longer) currently required with the other authorization procedures. The simple deletion of the technical review process could save two to five weeks of the application processing time except in those cases where it is necessary to perform pre-grant testing. Additionally, the preparation time for the application to the Commission should be considerably reduced, amounting to a further savings to the applicant. It is realized that this time savings represents only a small portion of the total time spent in preparing an application, the testing of the equipment representing the major portion, yet the reduction in paperwork for the applicants should be considerable.

7. Regarding the matter of automatically granting notification within a specified number of days of the receipt of an application, it is interesting to note that such a regulation was in effect for type acceptance until 1974. An application was automatically granted after 30 days in the absence of Commission action to the contrary. This regulation was deleted in Docket No. 19356.[2] In responding to our proposal to

[1] Type acceptance and certification, along with type approval, are procedures under which this Commission determines that specific equipment is capable of compliance with the appropriate regulations. Should this review show that the equipment is capable of complying with the regulations and that the public interest would be served by a grant of the application, a grant of equipment authorization is issued and marketing of the equipment can begin. Verification is a separate procedure which requires the equipment supplier to determine that the equipment complies with the regulations. No information is submitted to the Commission for review and no grant is issued by the Commission under verification.

[2] Report and Order, FCC 74-113, 39 FR 5912.

delete the automatic grant provision, the commenters in that proceeding argued that:

> * * * industry has learned to include the 30 day period for grant of type acceptance in its design and production schedules for bringing a new product into production. It is contended further, that the deletion of this provision would introduce an untenable element of uncertainty into the involved process of putting a product on the market.[3]

The Commission responded to this argument with the following:

> This Commission cannot accept these arguments. With an equipment authorization serving as a de facto authorization to market equipment, the authorization must be based on a positive finding by the Commission, and cannot be based on the mere passage of time. The Commission must accordingly deny the request for the automatic grant of such an authorization.[4]

8. The arguments submitted by the commenters in the current proceeding are similar to those made in Docket No. 19356 and it would, at first, appear that no new material has been presented to the Commission to cause it to change its earlier opinion. Such a contention is countered by the argument from TI which states in its comments that the automatic grant of notification "* * * contrasts with the 'negative option' rejected in 1974 because the classes of equipment which fall into the notification category would have been the subject of *positive findings* by the Commission that such equipment poses little or no threat of interference because of its inherent nature or the experience gained by manufacturers in the development of devices which meet the Commission standards. *Cf.* Equipment Authorization procedures, 45 F.C.C. 2d 52, 29 R.R. 2d 781 (1974)" (emphasis added). This argument by TI is not sufficient to negate the earlier findings of this Commission. The decision to place equipment under notification will not be a finding that it is incapable of causing harmful interference. We realize that the equipment placed under this procedure is still capable of causing interference, the degree of which will vary among categories and among individual models and different manufacturers. "Positive findings" must still be made based on the information submitted by the manufacturer and the statement of compliance accompanying the application. No positive findings will have been made concerning the entire class of equipment placed under notification. Otherwise, we would propose that no equipment authorization be required for that category of equipment as opposed to placing it under notification. The argument of TI is not accepted as justifying the adoption of an automatic grant of approval and the decision in Docket No. 19356 will remain intact.

9. Once again, as in Docket No. 19356, we recognize the problems faced by industry in determining their market and advertising lead times because of the equipment authorization time delay. However, requiring action on an application for equipment authorization within a given time frame places a constraint on the Commission that will vary with staffing, budget appropriations, changes in equipment categories, and the degree of pre-grant testing which could be accomplished. This burden would not be in the public interest as it could force the Commission to automatically issue grants of authorization to equipment which would not otherwise receive approval, further proliferating the amount of noncomplying equipment reaching the marketplace. We are still committing ourselves to acting promptly on the applications and feel that this can be accomplished under notification. Every attempt will be made to process these applications and issue a grant within as short a time frame as possible.

Requirement for Measurement Data

10. Another point raised in the comments, particularly by EMCEE, concerned requiring the inclusion of measurement data, similar to that included with a conventional type acceptance or certification filing, with an application for notification whenever an applicant makes a first time filing under a Commission rule part. Variations of this concept occur in other comments. For example, Spectrum requested that the applicant be required to further certify that the necessary measurements were made by a qualified test laboratory, stating the name and address of the laboratory, or that they were made in the applicant's own qualified test laboratory and evidence as to the qualifications of that laboratory have been submitted to the Commission. This requirement would be used to positively alert the applicant of the need to test the equipment prior to submission and could encourage coordination with the FCC Laboratory staff on measurement techniques and interpretations of the various regulations. This latter point was referenced by some of the commenters, in particular Acrodyne, as a possible weakness of the notification procedure. Acrodyne pointed out that the applicant's knowledge of the pending technical review of the submitted application causes numerous FCC staff/manufacturer contacts on equipment design and testing procedures where the Commission staff may recommend alternative test equipment or methods. Also, such contacts prompt the manufacturer to more carefully design and thoroughly test the equipment, especially in light of the forthcoming technical review, and keeps the Commission staff abreast of the state-of-the-art in equipment design and testing. The comment expressed concern that notification would delete these FCC/manufacturer interactions and their associated benefits.

11. We are incorporating some of the suggested language from Spectrum into the compliance statement contained in Section 2.975(a)(6). It is felt that requiring the name and address of the test laboratory or in-house test facility to be included in the application will encourage continued contacts with the FCC Laboratory personnel should any problems arise concerning measurement procedures or interpretations of the regulations relating to specific standards. We believe that most manufacturers of previously approved equipment would continue such discussions with our staff without the need for this additional language but that encouragement should be given to new manufacturers and others that are not accustomed to filing applications for equipment authorizations.

12. There is an additional reason for adopting the suggestion from Spectrum. Many of the commenters felt that some manufacturers would be tempted by cost considerations to cut corners in their design and testing and would produce noncomplying equipment with a potential for causing interference. This temptation could be fueled by the cost of testing at an independent laboratory or by the cost of obtaining adequate test equipment and qualified personnel to make the measurements. It even appeared from the "flavor" of some of the comments that a few manufacturers felt that the adoption of the notification procedure would exempt them from the present testing requirements. This point should not be misunderstood. Such testing will be required by the rules and must be performed regardless of whether of not the results are reviewed by the FCC. The additional language added to the compliance statement will serve to further remind the applicant of the need to test the equipment.

13. At this point, we wish to emphasize that by the establishment and use of the notification procedure we are not downgrading the importance of

[3] Paragraph 25, *Ibid.*
[4] Paragraph 26, *Ibid.*

the authority conferred upon the Commission by Section 302 of the Communications Act of 1934, as amended (47 U.S.C. 302), nor the purpose and philosophy of the equipment marketing rules which were established pursuant to Section 302. The regulations adopted in Docket No. 18426 [3] require, with a few exceptions, that radio frequency devices subject to the technical standards in the Commission's rules comply with those standards prior to being marketed. In addition, radio frequency equipment subject to an equipment authorization is required to be covered by a grant of such authorization prior to being marketed. We wish to make clear that, under the notification procedure, devices subject to the procedure are required to comply with the applicable technical standards *and* to be covered by a grant of notification prior to marketing. The only exceptions to the pre-marketing compliance and authorization requirements for devices subject to any of the equipment authorization procedures are stated in Subpart I of Part 2 of the regulations (47 CFR 2.801 *et seq.*).

14. We are not adopting the proposal by EMCEE and others to require the inclusion of measurement data with an applicant's first time submission under a particular rule part. The notification procedure is unique among the other equipment authorization procedures in giving the Commission the ability to structure the format of the received application as desired. A sample of the equipment can be requested without measurement data, simulating the type approval authorization. Alternatively, the measurement data can be requested without a sample, simulating the type acceptance/certification authorization. Should a new type of equipment be submitted for approval, it is quite probable that both the measurement data and a sample would be requested by the Commission prior to the issuing of a grant of authorization. (This type of request is not unusual even under the present authorizations when a new category of equipment is involved, yet it is unlikely that we would place a new type of equipment under notification.) Likewise, it is possible that a new manufacturer or applicant for a grant of equipment authorization or a first time applicant under a specific rule part would be requested to submit additional data, depending on the type of equipment for which approval is sought. We intend to require the submission of such additional data when it is felt to be needed but do not wish to require its submission on a routine basis.

15. We cannot guarantee that samples or data will not be required prior to the issuance of a grant, as requested by the EIA/CEG. However, requests for additional information or test samples prior to the issuance of a grant are expected to be made sparingly and primarily for equipment with a history or probability of noncompliance with the regulations. In addition, some random pre-grant sampling and data submission requests may also be made as resources and time permit. We wish to stress that these requests for data and/or samples may be expected by applicants whenever an application is not sufficiently complete to determine if a grant should be issued or there are any questions concerning the submitted application or the appropriateness of issuing a grant of authorization. If a category of equipment covered under notification becomes a source of interference because of an increase in the level of use of the equipment, noncompliance with the regulations, or for any other reason, it is likely that additional information and/or an equipment sample would have to be submitted before a grant would be issued.

Retention of the Existing Authorizations

16. The third major area of concern expressed in the comments was the advisability of deleting the present type approval, type acceptance and certification equipment authorization procedures. Anaconda-Ericsson and Atari both requested a phased-in elimination of the existing authorization procedures, alleging that the existing procedures (1) cause additional costs to the manufacturer and, ultimately, the consumer, (2) duplicate the manufacturer's testing efforts, and (3) delay the market introduction of equipment. Additionally, COMSAT requested that the certification procedure be deleted for a six-month experimental period. Should the results from that experimental deletion prove favorable, certification should be permanently deleted and the possibility of deleting type acceptance and type approval should be considered.

17. Three companies, EMCEE, Acrodyne and GE, specifically requested that the type acceptance, type approval and certification procedures be retained. In addition, a number of parties (SIRSA, Motorola, M/A-COM, OKI, and Complico) filed in opposition to or in partial opposition to the notification procedure along with GE and Acrodyne mentioned above. In some cases the opposition was based on the possibility of including a certain category of equipment under notification, especially land mobile equipment. These commenters were adamant in urging the Commission to retain the existing procedures in order to minimize the marketing of noncomplying equipment. They argued that procedures such as type acceptance, unlike the notification procedure, are more likely to identify and resolve any technical problems before the equipment is introduced into the marketplace while notification would be more likely to identify equipment with defects only after the equipment is in the marketplace and interference problems have already resulted.

18. While comments regarding the inclusion of certain equipment categories, as earlier stated, were specifically not requested and will not be considered, the receipt of such comments emphasizing the manufacturers' opposition to using notification for their equipment indicates their belief that the present equipment authorizations are useful for controlling the interference potential of equipment in certain radio services. Indeed, this was the basic argument against adoption of the notification procedure. A few of the commenters stated that the present type acceptance program is not a burden. As stated by SIRSA, the current procedures applicable to land mobile radio equipment (type acceptance and certification) "* * * have not hindered the provision of diverse sources of reliable, technically sound, durable and economical land mobile radio equipment. We believe these procedures have contibuted to the current environment of diverse, quality equipment sources." SIRSA followed this comment by stating that "* * * the burdens of the existing authorizations appear minimal and justified." This line of reasoning was repeated in the reply comments from GE in which they state "As a principal manufacturer of radio equipment, GE has never believed that the type approval, type acceptance or certification processes imposed an undue regulatory burden on the supplier, but rather added an important and necessary safeguard against the marketing of radio frequency devices that could contaminate the spectrum."

19. We are convinced of the need to retain the existing procedures especially as applied to types of equipment which have a high potential for creating interference problems, equipment used in highly congested radio services, and equipment used in new areas of

[3] Report and Order, FCC 70-506, 35 FR 7894, 23 FCC 2d 79.

technology. All of the comments which supported deleting the present authorization procedures were filed by companies that have only recently had their equipment brought under these authorizations (COMSAT [6] and Atari are concerned with Class B computers recently placed under certification and Anaconda-Ericsson is concerned with equipment (subject to both type acceptance and certification) for the newly instituted Domestic Public Cellular Radio Telecommunications Service). Their concern with the time delays and other factors associated with the authorization procedures is therefore understandable. However, the demonstrated ability of the existing authorization procedures to minimize the amount of interference-causing equipment reaching the marketplace should not be overlooked. Therefore, the existing procedures are being retained.

20. Much of the objection against the notification proposal was based on a concern that some manufacturers would cut corners to reduce the price of their equipment or the cost of its production. Moreover, as pointed out by Motorola, even reputable manufacturers could inadvertently market noncomplying equipment as the result of either a simple error or because of a misinterpretation of the Commission's requirements. These problems might be detected in our sampling program. However, SIRSA remarked that if sampling of the marketed equipment was necessary under notification in order to achieve the same effectiveness as was achieved under type acceptance without sampling, then notification presents no substantial improvement over type acceptance in terms of benefit to the public or reduced demands on Commission resources. M/A-COM expressed similar reservations but would accept the notification proposal if it actually resulted in a substantial reduction in the application processing time. OKI further advanced this contention by stating that more demanding standards have been necessary to prevent interference and that it is important to maintain the effectiveness of the equipment authorization program and to strengthen rather than relax our standards. We believe that these concerns can be satisfied by judicious selection of the equipment to be placed under notification.

21. With the proper choice of equipment placed under notification, the institution of a strong sampling program will increase the effectiveness of notification in preventing noncomplying equipment from being marketed. We intend to give greater emphasis to equipment sampling, both pre-grant and post-grant. Such sampling was needed under the type acceptance and certification procedures but was used only on a limited basis as it also affected the backlog time for equipment authorization applications. This problem should be reduced by the actions we are taking today.

22. This increased sampling should be of great benefit to the Commission, especially in the area of post-grant sampling. It has been alleged that some of the samples submitted for type approval or even for type acceptance or certification (when requested) are what are known as "laboratory queens". These are engineering prototype or hand-assembled units with hand-picked components which are completely tested prior to submission to our laboratory. These units may not be representative of the quality of the equipment actually being produced in quantity and marketed to the public. As resources permit, our expanded sampling program will test equipment marketed to the public and will, therefore, be able to obtain a more accurate assessment of the equipment actually used by the public. This sampling will not be limited to equipment placed under notification or verification but will be expanded to cover all types of radio equipment, including those covered under type approval, certification and type acceptance. Such a program can be of substantial benefit to the public by reducing the quantity of interference-causing equipment being marketed and by allowing the Commission to identify and correct the sources of interfering equipment.

Miscellaneous Considerations

23. We received a number of additional miscellaneous comments in this proceeding. It was suggested that the notification procedure be replaced with a "registration" program or an "authentication" program with an automatic grant of authorization, that sampling tests be made on the manufacturer's premises, and that private companies be allowed to issue grants of equipment authorization. These suggestions must be considered to be beyond the scope of this proceeding.

24. Motorola suggested that schematics, photographs and a statement of the intended use of the equipment be required with an application for notification in order to positively identify the equipment and to allow the Commission to quickly verify that the equipment will satisfy the requirements applicable to the particular radio service. Atari opposed this suggestion in their reply comments as the requirement for such information would defeat the purpose of the notification proposal, i.e., the elimination of unnecessary information being sent to the Commission. We agree with Motorola on the ability of schematics and photographs to positively identify the equipment. However, the option to request this material is available under notification and will be used whenever it is felt to be necessary. We can not justify, especially without knowing the specific types of equipment to be included, requiring this material on a routine basis for precisely the reason given by Atari. One purpose of notification is to eliminate the filing of non-essential paperwork. The requirement for a statement of intended use of the equipment was proposed in the NPRM in this docket and is being adopted as proposed (see § 2.975(a)(3)). The amount of paperwork associated with this requirement is minimal, usually requiring only one sentence of information, while the statement can be used to determine if the equipment is eligible for operation in the concerned radio service or under the rule(s) cited by the applicant.

25. In order to facilitate minor design changes in authorized equipment, the regulations specify that certain permissive changes may be made without having to obtain a new grant of equipment authorization. The NPRM in this proceeding proposed that only those Class I permissive changes allowed for type accepted equipment (Section 2.1001(b) of the regulations) be permitted for equipment placed under notification. Motorola also requested that Class II permissive changes be allowed under notification. In a similar vein, TI, supported by Atari's reply comments, requested that permissive changes as currently applied to equipment authorized under the certification procedure (Section 2.1043 of the regulations) be allowed should equipment presently subject to certification be placed under notification. The only differences in the permissive changes for type accepted or certificated equipment concerns the introductory paragraph of the rule sections. Section 2.1001 restricts changes in the tube or semiconductor line up, the frequency multiplication circuitry, the basic frequency determining and stabilizing circuitry, the basis modulator circuit and the maximum power rating.

[6] While we are not aware of any Class B computing equipment presently being marketed by COMSAT, their comments lead us to believe that they may be contemplating entering this area.

Any changes in the restricted elements contained in the introductory paragraph of § 2.1001 are a change in equipment "type" and are not allowed as a permissive change under type acceptance, requiring the obtaining of a new grant of authorization. Section 2.1043 allows for changes in those restricted elements as long as the performance characteristics of the equipment are not adversely affected.

26. We are in agreement with Motorola that Class II permissive changes should be allowed in equipment placed under notification. We are also in agreement with TI and Atari that it would be unfair to reduce the degree of permissive change allowed in equipment formerly subject to the lesser restrictions under certification. Yet, we do not wish to impose two different types of permissive changes based on the heritage of the equipment. Therefore, in order to further reduce the regulatory restrictions under notification, we have amended § 2.977(b) of the proposed regulations to reflect the type of permissive changes currently allowed for equipment subject to the certification procedure, as detailed in § 2.1043 of the regulations. This change will reduce the restrictions on manufacturers of equipment which was previously subject to the type acceptance procedure but should not increase the interference potential of the devices since no degradation of the performance standards would be allowed under the Class I permissive change and any degradation allowed under a Class II permissive change would still not allow the equipment to exceed the limits in the technical standards contained in the regulations. Type acceptance was concerned with maintaining equipment of the same "type" under the identification submitted with the application. The necessity for requiring this under notification is not considered to be as critical as with equipment maintained under type acceptance.

27. In connection with permissive changes, the EIA/PCS requested that use of the notification procedure be allowed when modifications or permissive changes are made to equipment approved under one of the existing forms of equipment authorization but which was subsequently brought under the notification procedure prior to the modifications or permissive changes. We can see no reason not to allow this relaxation. Once a category of equipment is placed under notification, all other actions, involving any equipment of that category, regardless of the former approval issued to that equipment, will be treated under notification.

28. M/A-COM requested that the Commission utilize analytic modeling techniques to estimate any changes in enforcement costs under various alternative approaches to the notification procedure. This analysis would take the sampling procedure into account and could be used to compare the costs of the current equipment authorization procedures with the notification procedure and its sampling and possible enforcement problems. The cost comparison would allow the Commission to weigh the potential risks of notification against the benefits it is attempting to achieve. Analytic modeling can be a useful tool in evaluating regulatory alternatives. It should never be considered the final word, however, because it can only be as accurate as its assumptions and data. Moreover, any type of modeling that examined specific equipment types provides little insight into a proceeding that merely establishes new procedures. Furthermore, since we are bound by the Administrative Procedures Act to disclose our rationale for action in a particular area, parties believing we have erred have all the information necessary to seek relief either through us (on reconsideration) or through judicial review. We believe any action that would tend to restrict our analysis, even in the relatively narrow area of equipment authorization, would unduly limit our options to establish policies in the public interest. Thus, we are not adopting by M/A-COM's request.

29. TI requests the Commission to make a listing of certificated equipment more available under the notification procedure. Assuming for the moment that all certificated equipment were to be placed under notification, the sheer number of models of equipment would make this task unfeasible. Type accepted equipment which is published in the Commission's "Radio Equipment List, Equipment Acceptable for Licensing" constitutes only a small part of the equipment approved by this agency. The majority of equipment models are approved under certification as this category includes all receivers operating between 30 and 890 MHz, (including television and FM broadcast receivers) as well as CB receivers, low powered transmitters and many other nonlicensed devices. The sheer number of equipment models included under certification would make the publishing of an approved equipment list prohibitive. The cost of publishing would be prohibitive both to the Commission and to those members of the public that may wish or need a copy as the size of the publication would require many volumes instead of the one volume now published. There also appears to be little demand for a list of certificated equipment as no license is required to operate this equipment and the general public is expected to have very little need for such a list. The inquiries which are received generally reference specific equipment and can be most efficiently and economically handled on a case-by-case basis. We will continue to publish an equipment list, including that equipment placed under notification, for those licensed radio services which need to determine that the equipment has been approved prior to marketing and licensing, but we must consider any suggestions to expand this list to be beyond the scope of this item.

Rule Amendments

30. The rules being adopted in this proceeding are shown in the attached Appendix B. These regulations are almost identical to those proposed in the earlier notice in this docket. The following changes or additions have been made: (1) Section 2.975(a)(6) which contains the compliance statement to the filed with applications for notification was changed to indicate the laboratory which tested the equipment; (2) Section 2.977 regarding changes in equipment under notification has been revised to reflect the permissive changes currently contained in Section 2.1043 of the existing regulations for that equipment which retains the same identification specified in the grant of authorization; and (3) Section 2.975 contains a new paragraph (e) to alert applicants that measurement data, samples or other information may be required prior to the issuance of a grant of notification. While not discussed in the preceding text, a change was also made to § 2.933(b) though no comments were received on this rule section. A new grant of equipment authorization is necessary whenever there is a change in the identification of the equipment even if no changes are made in the design, circuitry or construction.

31. We expect the regulations adopted in this order to have a minimal adverse impact on both the manufacturers and users of this equipment. We wish to point out that no changes in these regulations are intended to change the technical standards relating to the equipment nor are they intended to delete any of the test requirements which currently exist with the other equipment authorization procedures. We

expect applicants for an authorization under notification to continue to contact the appropriate FCC personnel whenever any questions develop concerning specific testing methods, equipment design problems or interpretations of the regulations themselves. In other words, we do not wish the actions taken in this docket to change the interactions currently employed between industry and Commission personnel.

32. A number of benefits can be achieved from the proper handling of the notification procedure. The benefits to the manufacturers, and ultimately the consumer, include the ability to market equipment at an earlier date and the savings produced from this earlier marketing, the ability to more effectively plan a marketing penetration date, and the deletion of the preparation of a measurement data report. At the same time, the Commission will be able to concentrate its resources in the areas of the equipment authorization program where they are most needed. The interference aspect of the equipment must be taken into account before it is placed under notification if this program is to function correctly. We are hopeful that those organizations that furnished comments in this proceeding will continue their support in the associated proposals to place equipment under verification and notification.

Conclusion

40. In view of the foregoing, we find that the amended rules as described above and in the attached Appendix B are in the public interest, convenience and necessity. The authority for these amendments is contained in Sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended. Accordingly, it is ordered, effective February 22, 1983, that Part 2 of the Commission's Rules and Regulations is amended as set out in the attached Appendix B and that all other requests for amendments, as detailed above, are denied. It is further ordered that this proceeding is terminated.

Federal Communications Commission.

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

William J. Tricarico,

Secretary.

Appendix A

Comments were received from:

1. Special Industrial Radio Service Association, Inc. (SIRSA)
2. GTE Service Corporation (GTE)
3. Phonic Ear, Inc. (Phonic Ear)
4. Electrohome Electronics (Electrohome)
5. Computer and Business Equipment Manufacturers Association (CBEMA)
6. Rockwell International Corporation (Rockwell)
7. Motorola, Inc. (Motorola)
8. Commodore Business Machines, Inc. (Commodore)
9. Anaconda-Ericsson, Inc. (Anaconda-Ericsson)
10. Personal Communications Section, Communications Division, Electronic Industries Association (EIA/PCS)
11. M/A-COM, Incorporated (M/A-COM)
12. Texas Instruments Incorporated (TI)
13. Electronics, Missiles & Communications, Inc. (EMCEE)
14. Atari, Inc. (Atari)
15. Consumer Electronics Group of the Electronic Industries Association (EIA/CEG)
16. Acrodyne Industries (Acrodyne)
17. OKI Advanced Communications (OKI)
18. COMSAT General TeleSystems, Inc. (COMSAT)
19. Complico (Complico)
20. Spectrum Measurements Corp. (Spectrum)

Reply comments were received from:

1. Atari, Inc.
2. Motorola, Inc.
3. General Electric Co. (GE)

Appendix B

Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

1. The Table of Contents for Part 2 is amended in Subpart J by adding a new § 2.904, revising the undesignated subheading after § 2.908, and by adding a new undesignated subheading and §§ 2.971–2.979 after § 2.969, to read as follows:

PART 2—[AMENDED]

* * * * *

Subpart J—Equipment Authorization Procedures

General Provisions

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2.904 Notification

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Application Procedures for Equipment Authorizations

2.909 * * *

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2.969 * * *

Notification

2.971 Cross reference.
2.973 Limitations on notification.
2.975 Application for notification.
2.977 Changes in notified equipment.
2.979 Information required on identification label for notified equipment.

Type Acceptance

* * * * *

2. Section 2.803 of Subpart I is revised as follows:

§ 2.803 Equipment requiring Commission approval.

In the case of a radio frequency device, which, in accordance with the rules in this chapter must be type approved, type accepted, certificated or notified prior to use, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any such radio frequency device, unless, prior thereto, such devices shall have been type approved, type accepted, certificated or notified as the case may be: *Provided, however,* That the advertising or display of a device, which has not been granted type approval, type acceptance, certification or notification, will not be deemed to be an offer for sale if such advertising contains, and the display is accompanied by, conspicuous notice worded as follows:

This device has not been approved by the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased until the approval of the FCC has been obtained.

This provision does not apply to radio frequency devices that could not be granted an equipment authorization or be legally operated under our current rules. Such devices shall not be advertised or displayed or offered for sale or lease or sold or leased. *Provided further,* That any non-approved device displayed under the terms of the above provision may not be activated or operated.

3. Section 2.901 is revised as follows:

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be verified by the manufacturer or importer, or that such equipment receive an equipment authorization from the Commission by one of the following procedures: type approval, type acceptance, certification, registration or notification.

(b) The following sections describe the verification procedure and the

procedures to be followed in obtaining type approval, type acceptance, certification or notification from the Commission and the conditions attendant to such a grant.

4. A new § 2.904 is added to read as follows:

§ 2.904 Notification.

(a) Notification is an equipment authorization issued by the Commission whereby the applicant makes measurements to determine that the equipment complies with the appropriate technical standards and reports that such measurements have been made and demonstrate the necessary compliance. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested by the Commission pursuant to §§ 2.936, 2.943 or 2.945.

(b) Notification attaches to all items subsequently marketed by the grantee which are identical, as defined in § 2.908, to the sample(s) tested and found acceptable by the grantee.

(c) Permissive changes or other variations authorized by the Commission to equipment under the notification procedure shall be made in accordance with the restrictions contained in § 2.977.

5. The undesignated subheading after § 2.908 is revised to read as follows:

Application Procedures for Equipment Authorizations

6. Paragraph (c) and the introductory sentence of paragraph (a) of § 2.915 are revised as follows:

§ 2.915 Grant of application.

(a) The Commission will grant an application for type approval, type acceptance, certification or notification if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

* * * * *

(c) Neither type approval, type acceptance, certification or notification shall attach to any equipment, nor shall any equipment authorization be deemed effective, until the application has been granted.

7. Section 2.931 is revised, as follows:

§ 2.931 Responsibility of the grantee.

In accepting a grant of an equipment authorization the grantee warrants that each unit of equipment marketed under such grant and bearing the identification specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) determined by the grantee for notification, filed with the application for type acceptance or certification, or measured by the Commission in the case of type approved equipment, continues to be representative of the equipment being produced under such grant within the variation that can be expected due to quantity production and testing on a statistical basis.

8. Paragraph (a) of § 2.932 is revised and a new paragraph (e) is added, as follows:

§ 2.932 Modification of equipment.

(a) A new application for an equipment authorization shall be filed whenever there is a change in the design, circuitry or construction of an equipment or device for which an equipment authorization has been issued, except as provided in paragraphs (b), (c), (d) and (e) of this section.

* * * * *

(e) Permissive changes may be made in notified equipment pursuant to § 2.977.

9. Paragraph (b)(5) and paragraph (c) of § 2.933 are revised, as follows:

§ 2.933 Change in identification of equipment.

* * * * *

(b) * * *

(5) Whether the data previously filed with the Commission (or measured by the Commission in the case of type approved equipment or measured by the applicant in the case of notified equipment) continues to be representative of and applicable to the equipment bearing the changed identification.

* * * * *

(c) If the change in identification also involves a change in design or circuitry which falls outside the purview of a permissive change described in §§ 2.977, 2.1001 or 2.1043, a complete application shall be filed pursuant to § 2.909.

10. A new paragraph (a)(3) is added to § 2.938 to read as follows:

§ 2.938 Retention of records.

(a) * * *

(3) For equipment covered under the notification procedure, a record of the test results that demonstrate compliance with the appropriate regulations.

* * * * *

11. Paragraph (a) of § 2.941 is revised as follows:

§ 2.941 Availability of information relating to grants.

(a) Grants of equipment authorization, other than for receivers and equipment authorized for use under Parts 15 or 18 of this Chapter, will be publicly announced in a timely manner by the Commission. Information about a receiver authorization or about the authorization of a specific model of equipment under Parts 15 or 18 of this Chapter may be obtained by contacting the Commission's Office of Science and Technology.

* * * * *

12. Paragraph (a) of § 2.943 is revised as follows:

§ 2.943 Submission of equipment for testing.

(a) The Commission may require an applicant for type acceptance, certification or notification to submit one or more sample units for measurement at the Commission's laboratory.

* * * * *

13. A new undesignated heading is added after § 2.969 and new §§ 2.971–2.979 are added to read as follows:

Notification

§ 2.971 Cross reference.

The general provisions of this subpart, 2.901, *et seq.*, shall apply to applications for the grants of notification.

§ 2.973 Limitations on notification.

Notification is a grant of equipment authorization issued by the Commission that signifies that the applicant has determined that the equipment has been shown to be capable of compliance with the applicable technical standards in the Commission's rules if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. Compliance with these standards shall not be construed to be a finding by the applicant with respect to matters not encompassed by the Commission's rules.

§ 2.975 Application for notification.

(a) Subsequent to the determination by the applicant that the equipment complies with the applicable standards, the applicant, who shall retain the responsibility for ensuring that the equipment continues to comply with such standards, shall file a request for the issuance of an equipment authorization on FCC Form 731, for each FCC Identifier, with all questions answered. Where a form item is not applicable, it shall be stated. The application shall be filed in the name of the party to whom the grantee code is assigned (see § 2.926 concerning the assignment of identifier codes). The following information shall be included in the filing, either in answer to the

questions on the form or as attachments thereto:

(1) name of the applicant indicating whether the applicant is the manufacturer of the equipment, a vendor other than the manufacturer, a licensee or a prospective licensee. Where the applicant is not the manufacturer of the equipment, the name of the manufacturer shall be stated;

(2) The following technical information:

(i) Type or types of emission (if applicable);

(ii) Frequency range;

(iii) Rated frequency tolerance (if applicable); and

(iv) Rated radio frequency power output, if applicable (if variable, give the range);

(3) A statement concerning the intended use of the device including both the type of use for which the device has been designed and the part(s) or subpart(s) of the rules governing the device;

(4) The FCC Identifier of the equipment for which notification is sought (see § 2.926) and a photograph or drawing of the equipment identification plate or label showing the information to be placed thereon in accordance with § 2.925;

(5) If specifically required under the rule section(s) under which the equipment is to be operated, photographs of the equipment of sufficient clarity to reveal its external appearance and size, both front and back; and

(6) A signed statement attesting to the following or its equivalent:

This equipment has been tested in accordance with the requirements contained in the appropriate Commission regulations. To the best of my knowledge, these tests were performed using measurement procedures consistent with industry or Commission standards and demonstrate that the equipment complies with the appropriate standards. Each unit manufactured, imported or marketed, as defined in the Commission's regulations, will conform to the sample(s) tested within the variations that can be expected due to quantity production and testing on a statistical basis. I further certify that the necessary measurements were made by (state the name and address of the test facility even if your own facility was used).

(b) The statement required in paragraph (a)(6) of this section shall be signed pursuant to § 2.909(c).

(c) Upon the satisfactory completion of the necessary testing to determine that the applicable standards are met, the submission of the material required in paragraph (a) of this section and the issuance of a grant of equipment authorization, marketing, as defined in § 2.803, is permitted.

(d) The authorization of the equipment through the notification procedure may be revoked pursuant to § 2.939.

(e) Further information may be requested prior to the issuance of a grant of notification. This information may include measurement data, photographs, circuit diagrams and descriptions, or any other material which may be deemed necessary.

§ 2.977 Changes in notified equipment.

(a) Under the notification procedure, the grantee warrants that each unit of equipment marketed under the identification specified in the grant of equipment authorization will conform to the unit(s) tested and found acceptable by the grantee and that data on file with the grantee, as required in § 2.938, continues to be representative of the equipment being produced under such notification within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) Permissive changes in the design of notified equipment may be performed only under the conditions detailed in paragraphs (a) through (c) of § 2.1043.

§ 2.979 Information required on identification label for notified equipment.

Each equipment for which a notification application is filed shall bear an identification plate or label pursuant to §§ 2.925 and 2.926. The FCC Identifier for such equipment will be validated by the grant of notification.

[FR Doc. 83-2063 Filed 1-25-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 30120-12]

Foreign Fishing; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; corrections and technical amendment.

SUMMARY: This document adds a vessel activity code for "joint ventures," and corrects amendatory language in a recent rulemaking and notice regarding specific groundfish and the "TALFF" table (Total Allowable Level of Foreign Fishing). The intended effect is to clarify and simplify various activities carried out under the Magnuson Act.

EFFECTIVE DATE: January 26, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Jelley, National Marine Fisheries Service, 202-634-7432.

SUPPLEMENTARY INFORMATION: This document makes several corrections as well as a technical amendment to clarify administration of the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*).

1. Currently, foreign vessel permits are issued for three activities: harvesting, processing, or other support. Foreign vessels receiving U.S.-caught fish at sea ("joint ventures") have been permitted under activity code 2. A new activity code is added to separate processing of foreign-harvested fish from processing U.S.-harvested fish.

2. The amendatory language in a recent final rule is corrected to indicate which paragraphs are modified. The title of a section in another final rule is corrected.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting requirements.

Dated: January 21, 1983.

Carmen Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Services.

For the reasons stated in the preamble, 50 CFR Parts 611 and 663 and FR Documents 82-27711 and 82-27291 are amended as follows:

PART 611 [AMENDED]

1. The authority citation for 50 CFR Part 611 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Amend 50 CFR 611.3 by adding a new paragraph to the end of paragraph (d) to read as follows:

§ 611.3 Permits for foreign fishing vessels.

* * * * *

(d) * * *

Class 4: Receipt at sea of United States harvested fish from vessels of the United States ("joint venture").

* * * * *

PART 663 [AMENDED]

3. In FR Doc. 82-27711 appearing on page 44264 in the issue of October 7, 1982, remove item 6.

§ 663.3 [Corrected]

4. In FR Doc. 82–27291, the title of § 663.3, appearing in the right-hand column on page 43975 in the issue of October 5, 1982, is corrected from "Retention to other laws" to "Relation to other laws".

[FR Doc. 83-2150 Filed 1-25-83; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 18
Wednesday, January 26, 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 910

[Docket No. AO-144-A14]

Lemons Grown in California and Arizona; Amendment of Notice of Hearing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Change of location of public hearing.

SUMMARY: This document is intended to notify the public of a change in the location of a public hearing on a proposed marketing agreement and proposed further amendment of Marketing Order 910, as amended. Notice of the public hearing was published in the **Federal Register** on January 13, 1983 (48 FR 1508).

DATE: The hearing will begin at 9:00 a.m. on February 14, 1983.

ADDRESS: The hearing will be held at the Oak View Community Center, 18 Valley Road, Oak View, Calif., rather than at the location specified in the notice.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone: 202-447-5975; or Roland G. Harris, Los Angeles Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 845 S. Figueroa, Suite 504, Los Angeles, California 90017, telephone: 213-668-3190.

Signed at Washington, D.C., on: January 20, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-2074 Filed 1-25-83; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

[Docket No. PR-170]

Proposed Revision of License Fee Schedules

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On November 22, 1982 (47 FR 52454), the NRC published for public comment a notice of proposed rulemaking regarding amendments to its regulations and fees for inspections and review of applications for permits, licenses, amendments, renewals, and special projects (including topical and other reports) dated November 15, 1982. At the request of the Atomic Industrial Forum the NRC is extending the period for comment on the proposed rule from January 18, 1983 to February 8, 1983.

DATE: Comments on the proposed rule (47 FR 52454, November 22, 1982) must be submitted to the NRC by February 8, 1983.

ADDRESSES: Send comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch. Deliver comments to: Room 1121, 1717 H Street, NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m. Copies of comments may be examined and copied for a fee at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William O. Miller, License Fee Management Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7225.

Dated at Washington, D.C. this 21st day of January 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-2115 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 34

[Docket No. 83-3]

Bankers' Banks

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("Comptroller") was recently granted express authority by Congress to charter limited purpose national associations of a type commonly known as bankers' banks to provide services solely to depository institutions. This new law gives the Comptroller substantial flexibility in the chartering and regulation of such bankers' banks. The Comptroller seeks comments on the standards and procedures to be used in the chartering and regulating of such bankers' banks.

DATE: Comments must be received on or before February 25, 1983.

ADDRESS: Comments should be sent to Docket No. 83-3, Communications Division, 3d Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW. Washington, D.C. 20219. Attention: C. Christine Jones. Telephone: (202) 447-1800. Comments will be available for inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Mark Leemon or Duff Jordan, Attorneys, Legal Advisory Services Division, (202) 447-1880, or Randall J. Miller, Bank Organization and Structure Division, (202) 447-1184, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The first State-chartered bankers' bank was established in 1975 in Minnesota. That institution established an interstate network to perform data processing, proft analysis, compliance instruction, advertising, and other services for banks. Further interest in bankers' banks was sparked by section 711 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221) which authorizes national banks to invest in State-chartered bankers' banks.

Section 404 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320) ("Act") authorizes the Comptroller to charter bankers' banks, *i.e.*, limited purpose institutions that are owned exclusively by depository institutions and that will provide services solely to depository institutions and their directors, officers and employees. This authority is primarily contained in amendments to 12 U.S.C. 24 (Seventh) and 27.

Under the Act, a national bank is permitted to own up to 5% of the voting shares of a bankers' bank or of a bank holding company that controls a bankers' bank, provided that all the subsidiaries of the holding company provide services only to depository institutions. The Act limits a national bank's total investment in the stock of one or more bankers' banks to 10% of the investing bank's unimpaired capital and surplus. the Comptroller requests comments on the wide-reaching issues of bankers' banks as well as on the specific issues discussed below.

Rulemaking Authority

The Act grants the Comptroller rulemaking and enforcement authority regarding the chartering and operations of national bankers' banks. The Comptroller is empowered to specifically waive or modify any requirements normally applicable to national banks if such requirements are deemed to be inappropriate or irrelevant to bankers' banks. The Comptroller requests comments concerning how such general regulations might be structured as well as any comments concerning the specifics of such regulations. For example, a requirement generally applicable to national banks which may be inappropriate to bankers' banks are regulations promulgated pursuant to the Community Reinvestment Act of 1977 (12 CFR Part 25). The Comptroller specifically seeks comments concerning this and other requirements that may be inappropriate to all or certain types of bankers' banks.

Existing bankers' banks, operating under State charters in at least six States, perform functions traditionally offered by correspondent banks such as check collection. Bankers' banks typically are jointly owned by and provide services for small banks that seek the economies of scale available through combining resources. The Act parallels several State laws in permitting a wide range of activities by bankers' banks. The Comptroller seeks comments on the types of services that national bankers' banks should be permitted to perform. Respondents are also asked to comment on whether the Comptroller should enumerate specific permissible activities and prohibitions.

Chartering Procedures

The Comptroller anticipates that the chartering of national bankers' banks will be similar to existing chartering procedures, *i.e.*, applicant groups will be requested to submit information on the shareholders and the operating plan of the proposed institution. The Comptroller might, however, determine that the capital requirements generally applicable to a national bank would be inappropriate for certain limited purpose institutions. The issue of capital requirements can be briefly summarized: should bankers' banks be permitted to be operated on a relatively small capital base? An affirmative answer to this question could be premised on the rationale that bankers' banks will not be performing the types of risk activities (such as commercial lending) that necessitate a large capital base. Similarly, the character of their liabilities may differ from the norm for commercial banks. The Comptroller specifically seeks comments on this issue and any other statutory or regulating standards that might be inappropriate for bankers' banks.

A notice of proposed rulemaking will be published in due course after consideration of the available data and comments received in response to this notice.

List of Subjects in 12 CFR Part 34

National banks, Bankers' banks.

Dated: January 20, 1983.

Doyle L. Arnold,

Senior Deputy Comptroller for Policy and Planning.

[FR Doc. 83-2077 Filed 1-25-83; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements, Dockets 37982, 40584; Order 82-12-67]

Statements of General Policy

Correction

FR Doc. 83-1867 was published on page 2969 in the issue of Monday, January 24, 1983. It terminated a rulemaking proceeding. It was incorrectly published as a rule document and should have appeared in the Proposed Rules section of the **Federal Register.**

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly Statements Furnished to Futures Customers by Futures Commission Merchants; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On December 22, 1982, the Commission published in the **Federal Register** a proposed amendment to Section 1.33 of its regulations which would require futures commission merchants ("FCMs") to include in monthly statements to futures customers a detailed accounting of commissions and fees charged to the customer's account during the preceding month.[1] The comment period thereon was set to expire on January 21, 1983.

The Commission has received requests for an extension of that comment period. Because the Commission wishes to be certain that all parties have an opportunity to complete and submit their comments, it is allowing an additional thirty days for comment.

DATE: Accordingly, notice is hereby given that all comments on the Commission's proposed amendment to § 1.33 (47 FR 57055) must be submitted by February 21, 1983.

ADDRESS: 2033 K Street N.W., Washington, D.C. 20581, Attention, the Secretariat.

FOR FURTHER INFORMATION CONTACT: Paul G. Thompson, Esq., Legal Section, Division of Trading and Markets, at (202) 254-8955.

Issued in Washington, D.C. on January 20, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-2097 Filed 1-25-83; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 240

[Release Nos. 33-6449; 34-19431; IC-12969; 35-22821; File No. S7-958]

Disclosure of Management Remuneration

AGENCY: Securities and Exchange Commission.

[1] 47 FR 57055.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for comment, as part of its comprehensive Proxy Review Program, proposed rule and schedule amendments relating to the disclosure of management remuneration. The proposed revisions are intended to simplify disclosure and reduce compliance burdens in a manner consistent with investor protection. The proposed revisions include amendments to Item 402 of Regulation S-K, the uniform item governing the disclosure of management remuneration in proxy statements, registration statements, and periodic reports.

DATE: Comments must be received on or before May 1, 1983.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-958. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Susan P. Davis or Arthur H. Miller, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Executive Summary

The Commission is publishing for comment proposed amendments to Item 402 of Regulation S-K [17 CFR 229.402] and conforming amendments to Items 9, 10 and 11 of Schedule 14A [17 CFR 240.14a-101] under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.]. The proposed amendments would comprehensively revise Item 402 by limiting the Remuneration Table to disclosure of certain cash remuneration; by permitting other forms of remuneration to be disclosed pursuant to a narrative, tabular or other format; and by focusing on remuneration received or vested rather than including contingent remuneration. The proposed amendments to Schedule 14A reflect the changes proposed in Item 402 but do not significantly alter the existing disclosure requirements of the Schedule.

I. Background

The Commission is revisiting the disclosure provisions regarding management remuneration as part of its Proxy Review Program, which encompasses a review of all existing substantive and procedural provisions relating to the solicitation of proxies.[1] The Commission's goal in this project is to provide more meaningful information to investors and security holders, while, at the same time, simplifying and streamlining disclosure so as to reduce unnecessary burdens on registrants.

The Commission now has had approximately five years' experience with its existing disclosure provisions regarding management remuneration, which require disclosure of all direct and indirect remuneration, whether or not contingent, and prescribe a specific format for disclosure of most remuneration. The Commission believes that the current disclosure requirements have not been fully successful in communicating information about management remuneration in a manner that is easily understood by investors and security holders and that provides an accurate account of amounts actually paid. In addition, the complexity of the current disclosure provisions has resulted in increased costs of compliance for registrants and troublesome interpretive issues.

The Commission's current emphasis on tabular disclosure of remuneration came about in 1978 [2] as a result of its concern that the then-existing provisions for disclosure of management remuneration had become outmoded and that various forms of remuneration were not being reported. Prior to 1978, disclosure of management remuneration in proxy statements was governed by provisions that had been in place for over thirty years.[3]

In December 1978, the Commission made major revisions to Item 4. Foremost among these amendments was the adoption of a revised format for the Remuneration Table to require the disclosure, pursuant to a five column tabular format, of all remuneration that can be quantified and related to the services performed by management in a particular year and to key disclosure to amounts expensed for financial reporting purposes.[4] The amendments also revised Item 4 to require disclosure of "all" remuneration, as contrasted to the former "all direct" remuneration, and to change the persons with respect to whom individual disclosure was required from the three most highly compensated officers whose aggregate direct remuneration exceeded $40,000 to the five most highly compensated executive officers whose cash and cash-equivalent forms of remuneration exceeded $50,000. In addition, a new provision was added requiring disclosure of any arrangements by which directors of the registrant are compensated.

As a result of its experience with the December 1978 revisions, the Commission made a second set of major revisions to Item 4 in November 1980.[5] First, the Commission excluded stock options and stock appreciation rights from the Remuneration Table. Instead, Item 4 was revised to require disclosure, pursuant to a suggested tabular format, of certain specified information regarding the grant, exercise or realization, and unexercised amounts of, various options, warrants and rights. In addition, the Commission revised Item 4 to require disclosure with respect to defined benefit or actuarial plans in the form of a pension table (the "Pension Table") showing estimated annual benefits payable on retirement to individuals in specified remuneration and years-of-service classifications. The November 1980 revisions also added a new provision requiring a description, unless previously disclosed, of any

[1] the Commission already has taken action in three other areas related to proxy regulation. Recently, the Commission adopted a new uniform disclosure item, Item 404 of Regulation S-K, regarding disclosure of management relationships and transactions. (Release No. 33-6441 (December 2, 1982) [47 FR 55661]). In addition, the Commission has issued releases soliciting comment on proposed revisions to Exchange Act Rule 14a-8 [17 CFR 240.14a-8] governing proposals by security holders (Release No. 34-19135 (October 14, 1982) [47 FR 47434]) and on the recommendations of the Advisory Committee on Shareholder Communications regarding ways to improve the process by which issuers communicate with the beneficial owners of securities held in nominee name. (Release No. 34-19291 (December 2, 1982) [47 FR 55491]).

[2] Release No. 33-6003 (December 4, 1978) (43 FR 58151).

[3] These provisions required disclosure of: (1) All direct remuneration, (2) annuity, pension and retirement benefits, (3) direct and indirect payments proposed to be made in the future which had not already been reported, and (4) options to purchase securities of the issuer or its subsidiaries. The provisions were incorporated into Regulation S-K as Item 4 thereof from Item 7 of Schedule 14A [17 CFR 240.14a-101 (1977)] at the time that Regulation S-K was created as the repository of uniform disclosure provisions under the Securities Act and Exchange Act. (Release No. 33-5949 (July 28, 1978) [43 FR 34402]).

[4] Column A of the Remuneration Table requires the disclosure of the names of the individuals and the number of persons in the group for which disclosure is required, and Column B calls for disclosure of the capacities in which any named individuals served the registrant. Column C1 includes all cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses; Column C2 includes all remuneration distributed or accrued in the form of securities or property, insurance benefits or reimbursement, and personal benefits; and Column D includes contingent remuneration.

[5] Release No. 33-6261 (November 14, 1980) [45 FR 76982].

remunerative plans or arrangements which results or will result from the termination of employment if the amount involved is $50,000 or more.

Over the past few years, the disclosure provisions developed in 1978 and 1980 have been the subject of substantial criticism. Faulted as overly complex and burdensome, the provisions have resulted in disclosure that some times is confusing and focuses inordinately on detail. Moreover, the goal of making it possible to compare the cost of management of various registrants through uniform disclosure requirements has not been achieved.[6] Added to to these criticisms is the fact that, although the detail of the current provisions was designed specifically to alleviate many of the interpretive issues that had arisen under earlier provisions and to provide sufficient guidance to avoid the need for such interpretive advice in the future, numerous interpretive questions have continued to arise.[7]

II. Proposed Revisions

The Commission has determined that a substantially new Item 402, rather than minor adjustments to existing Item 402, is necessary to achieve the goals of improving the effectiveness of management remuneration disclosure and reducing the burdens of preparation. The proposed new Item 402 is discussed in detail on a section-by-section basis in the Appendix to this release.

Proposed Item 402 reflects three primary themes. First, the proposed Item focuses on remuneration actually received or vested; disclosure of contingent remuneration is proposed to be eliminated. Second, the proposed Item seeks clarity and simplicity by treating easily quantifiable remuneration differently from other forms of remuneration and by moving away from the focus on amounts expensed for financial reporting purposes. Specifically, cash remuneration paid to the named individuals and group during the last fiscal year would be presented in the Remuneration Table, while other remuneration generally could be presented in a narrative, tabular or other format, at the option of the registrant. Third, the proposed Item would focus on those persons who perform policy making functions for the registrant by limiting the persons to be included in the group to directors and executive officers.

Proposed Item 402 is divided into five sections. Proposed paragraph (a) would require disclosure, in tabular form (the "Cash Remuneration Table"), of cash amounts paid or earned during the last fiscal year. Pursuant to proposed paragraph (b), disclosure of remuneration paid or to be paid pursuant to various plans would be made in connection with the description of such plans. Pursuant to proposed paragraph (c), disclosure of other remuneration not covered by proposed paragraph (a) or (b), such as perquisites, would be disclosed in a narrative, tabular or other format. When such other remuneration does not exceed the greater of $10,000 or 10 percent of the cash remuneration disclosed in the Cash Remuneration Table, however, it would not be required to be disclosed. Disclosure of standard and other arrangements for the compensation of directors would continue to be required to be disclosed pursuant to proposed paragraph (d). Finally, disclosure of remunerative plans or arrangements relating to termination of employment would continue to be required pursuant to a separate provision, proposed paragraph (e).

III. Request for Comment

Any interested persons wishing to submit written comments on the proposed revisions to Item 402 of Regulation S–K, as well as on other matters that might have an impact on the proposals contained herein, are requested to do so. Commentators are specifically invited to make suggestions as to other revisions and to express their views as to the types of information about remuneration that are or are not important to investment and voting decisions. In addition, the Commission requests specific comment as to the costs incurred (by specific type and amount, if possible) by registrants in complying with existing Item 402 and the magnitude and areas of cost savings that registrants may realize if proposed Item 402 is adopted.

The Commission also requests comment on whether the proposed revisions, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Securities Act and the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

IV. Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis, prepared in accordance with 5 U.S.C. 603, relates to the proposal of a substantially new Item 402 of Regulation S–K, governing the disclosure of management remuneration in proxy statements, registration statements and periodic reports.

Reason for Proposed Action

During 1982, the Securities and Exchange Commission (the "Commission") announced that it would be conducting a comprehensive and coordinated review of the rules, forms and schedules relating to the solicitation of proxies. Adopted in a piecemeal fashion, and the subject of frequent changes, the current proxy rules may contain duplicative requirements and may have caused difficulty for registrants in gathering information necessary for disclosure. Moreover, the disclosure requirements applicable to proxy statements have become more detailed and complex over the years.

As part of its study of the proxy rules, the Commission has reviewed existing Item 402 of Regulation S–K. As a result of that review, the Commission has determined to propose for comment a substantially new Item 402. The basic reasons for this rulemaking proceeding are to simplify existing Item 402 and to reduce the compliance burdens on registrants, while, at the same time, providing investors and security holders with meaningful information concerning management remuneration. New Item 402 would implement these objectives by focusing on remuneration actually paid or vested and eliminating the disclosure of contingent remuneration; by limiting, for the most part, the Remuneration Table to cash paid or distributed, as contrasted to amounts expensed for financial reporting purposes; by allowing registrants to disclose remuneration other than cash paid in a narrative, tabular or other format; and by focusing on those members of management who perform policy making functions for the registrant.

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[6] Indicative of the fact thast current Item 402 has not made the cost of management of various registrants comparable are two articles reporting executive compensation. *See Business Week*, May 10, 1982 at 76–102; *Forbes*, June 7, 1982 at 74–100. Although both articles apparently relied on information disclosed by registrants in proxy statements, the publications differ in reporting the remuneration of various executives.

[7] Beginning with the provisions in effect in 1977 and continuing through the current disclosure provisions, the Commission has had to issue several interpretive releases regarding the disclousre of management remuneration. *See* Release No. 33–6364 [December 3, 1981] [46 FR 60421]; Release No. 33–6166 [December 12, 1979] [44 FR 74808]; Release No. 33–6027 (February 22, 1979) [44 FR 16368]; Release No. 33–5904 [February 6, 1978] [43 FR 6060]; Release No. 33–5856 [August 18, 1977] [42 FR 43058].

Legal Basis

New Item 402 is being proposed pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 (the "Securities Act") and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act").

Small Entities Subject to Item 402

The class of small issuers, as defined by Rule 0–10 (17 CFR 240.0–10) under the Exchange Act, which would be subject to new Item 402 is estimated to number 1,000.[8] With the recent adoption of Rules 12g–1 (17 CFR 240.12g–1) and 15d–6 (17 CFR 240.15d–6) under the Exchange Act, many small issuers can elect exemption from the periodic reporting requirements of Sections 12(g) or 15(d).[9] While no estimates are currently available as to the number of registrants that have elected such exemption, it is estimated that currently between 500 and 1,000 registrants would be subject to new Item 402 in preparing their annual reports on Form 10–K (17 CFR 249.310) and proxy statements pursuant to Regulation 14A (17 CFR 240.14a–1 et seq.)

In addition, the information called for by Item 402 is required to be included in all registration statements under the Securities Act except Form S–18 (17 CFR 239.28) (an optional registration statement available to small issuers and others.) Since 1981, over 200 offerings by small issuers, as defined by Rule 157 (17 CFR 230.157) under the Securities Act, have been registered on forms other than Form S–18.

Reporting, Recordkeeping and Other Compliance Requirements

The Commission believes that adoption of proposed new Item 402 would result in a reduction in reporting, recordkeeping and other compliance requirements for all registrants, including small entities. The Commission solicits comment on the impact that proposed new Item 402 would have on such small entities.

Overlapping or Conflicting Federal Rules

The Commission does not believe that existing rules duplicate proposed new Item 402. Adoption of new Item 402 will, however, necessitate conforming amendments to Items 9, 10 and 11 of Schedule 14A under the Exchange Act.

Significant Alternatives

Pursuant to Section 603 of the Regulatory Flexibility Act, the following types of alternatives were considered:

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) The classification, consolidation, or simplification of compliance and reporting requirements under Item 402 for small entities;

(3) The use of performance rather than design standards; and

(4) An exemption from coverage of Item 402, or any part thereof, for small entities.

In the Commission's view, alternative (3) is not applicable because the proposal is not related to either performance or design standards. With respect to alternative (4), the Commission previously has determined which small entities may appropriately be exempted from reporting requirements, including, in some cases, the requirement to disclose information under Item 402, pursuant to Exchange Act Rules 12g–1 and 15d–6.

With respect to alternatives (1) and (2), the Commission has proposed to revise Item 402 in a manner that is intended to reduce burdens on all entities required to comply with that item, including small entities. The proposed revisions, which are set forth in the release accompanying this analysis, include changes that are expected to reduce compliance burdens particularly in the case of small entities, such as the proposed increase in the threshold for individual disclosure of remuneration for a registrant's five most highly compensated executive officers or directors. The Commission believes that, in view of the new system of classification exempting certain small issuers from reporting requirements and the reduction in burdens contemplated by the proposed revisions to Item 402, additional revisions to Item 402 to further ease burdens on small entities with regard to remuneration disclosure are not necessary. Furthermore, the Commission believes any such additional revisions would not be appropriate, in view of the importance of management compensation to informed investment and voting decisions.

Solicitation of Comments

The Commission encourages the submission of written comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed revisions are adopted. Persons wishing to submit written comments should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. All submissions should refer to File No. S7–958 and will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Authority

The revisions are being proposed pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 666; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3–5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b) 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

January 17, 1983.

Appendix

A. Proposed Item 402(a). Cash Remuneration Table

Proposed Item 402(a) would require disclosure, in the form of a table ("Cash Remuneration Table"), of remuneration that was paid or, in certain circumstances, is to be paid in the form of cash for management's services to the registrant during the last fiscal year. The Commission believes that cash payments are particularly suited to disclosure in a tabular format and that such a table will disclose such remuneration in a meaningful and comprehensible fashion. The specific components of cash remuneration and the persons covered by the Cash Remuneration Table are contained in Items 402(a) (1) and (2).

Proposed Item 402(a)(1). Cash Remuneration. Proposed Item 402(a)(1) would require the registrant to provide, in substantially the tabular form specified, all cash remuneration paid through the latest practicable date to each of the registrant's five most highly compensated executive officers or directors whose cash remuneration

[8] Such class of small issuers is estimated to have numbered 1040 during fiscal year 1979, the most recent year for which a survey of issuers was conducted.

[9] *See* Release No. 34–18647 (April 15, 1982) [47 FR 17046].

exceeds $60,000, naming each such individual, and all executive officers and directors as a group, stating the number of persons in the group without naming them.[10] Thus, the registrant would disclose, in the Cash Remuneration Table, all salaries, commissions, fees or other cash remuneration which the designated persons have received for services rendered during the registrant's last fiscal year.[11]

The proposed format specified for the Cash Remuneration Table would reflect a technical revision to the heading of Column B, relating to position(s) in which individuals or group members served the registrant. The proposed heading would include the word "all" before "capacities in which served" in order to make clear the intent that all positions with the registrant should be noted in the Table.

Proposed Item 402(a) differs substantially from existing Item 402(a) in that tabular presentation of information is required only in the case of cash remuneration rather than all remuneration. Proposed Item 402(a) also would affect the scope of remuneration disclosure in two significant ways. First, individual disclosure would be limited to the five most highly compensated executive officers or directors whose cash remuneration exceeds $60,000. Currently, individual disclosure of remuneration is required in the case of the five most highly compensated executive officers or directors whose direct and indirect remuneration exceeds $50,000. The Commission believes that the existing threshold is too low, in view of the impact of inflation on salaries since 1978, when the $50,000 threshold was adopted.[12] In proposing to adjust the threshold, the Commission also has taken into account, however, the fact that fewer forms of remuneration would be aggregated under proposed Item 402(a) to determine whether the threshold is met than under existing Item 402(a).

Second, group disclosure of remuneration is proposed to be limited to all executive officers and directors as a group. This is different from group disclosure under existing Item 402, which covers all officers and directors. The Commission believes, however, that remuneration disclosure would be made more meaningful by focusing, in the case of officers, on those officers who perform policy making functions for the registrant.[13] This change also would be consistent with the scope of required disclosure in the amendments recently adopted concerning management transactions.[14]

In connection with its proposals regarding the scope of remuneration disclosure, the Commission solicits specific comment as to the executive officers and directors with respect to whom individual disclosure is appropriate. The existing requirement to make individual disclosure with respect to the five most highly compensated executive officers or directors was adopted in 1978, when it was changed from the top three such persons.[15] At that time, the Commission stated that a number of corporations, particularly those with larger and more diverse operations, have a chief executive office consisting of two or more persons or have top management functions performed by more than three persons.

The issue of individual remuneration disclosure raises a number of questions and suggests a number of alternative treatments. The first question is whether to require disclosure of only the aggregate remuneration figure for top management. The Commission generally has not taken this approach, believing investors find the individual remuneration information useful in making voting and investment decisions. It should be noted, however, that aggregate only remuneration disclosure is permitted in the case of foreign private issuers.[16]

The next question concerns the standard upon which an individual disclosure requirement should be based. The existing requirement endeavors to require remuneration disclosure on an individual basis for those few key managers who can be said to run the company as a whole, using a numerical approach. A number of alternative standards could be used to meet this objective. The first alternative would be to require individual disclosure only with respect to those executive officers or directors who hold certain specified titles or positions within a company, such as Chairman, Chief Executive Officer, Chief Operating Officer, President, Chief Financial Officer and/or Executive Vice President. This alternative could raise problems: (1) the titles or positions of executive officers and directors vary from company to company; and (2) individual disclosure could be avoided by the changing of titles or positions.

A second alternative would be to require individual disclosure only with respect to those executive officers or directors who perform certain key functions within the company. This, too, raises difficulties: (1) It may be difficult to define the functions the performance of which would trigger individual disclosure and any definition could tend to be expansive; [17] and (2) the relative importance assigned to various management functions differs from company to company.

A third alternative approach would be to require individual disclosure only with respect to those executive officers who also are directors, on the theory that such executive officers are the key policy makers within the company. This alternative also raises concerns: (1) The disclosure elicited would vary from company to company depending on a particular company's philosophy regarding the composition of its board; and (2) a company could avoid individual disclosure by excluding an executive officer from its board.

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[10] The tabular format specified contains three columns: Column A for the name of the individual or, in the case of all executive officers and directors as a group, the number in the group; Column B for the position(s) in which the individuals or group members have served the registrant during the past fiscal year; and Column C for the amount of the individuals' or group's total cash remuneration.

[11] Any cash bonuses earned during the last fiscal year and paid prior to the time remuneration disclosure is filed also would be covered by Item 402(a)(1). Often, however, cash bonuses earned during the registrant's last fiscal year have not been paid prior to the preparation of remuneration disclosure. In such cases, whether they would be included in the Cash Remuneration Table would depend on whether the specific bonus amounts have been determined by the time the remuneration disclosure is filed. See discussion, *infra*.

[12] This proposal would be consistent with amendments adopted recently to various Securities Act and Exchange Act rules to raise the dollar limits contained therein. (Release No. 33-6414 (June 29, 1982) [47 FR 29651]).

[13] Pursuant to Rule 405 under the Securities Act [17 CFR 230.405] and Rule 3b-7 under the Exchange Act [17 CFR 240.3b-7], the term "executive officer" is defined, when used in reference to a registrant, as the registrant's "president, any vice president of the registrant in charge of a principal business unit, division or function [such as sales, administration or finance), any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy making functions for the registrant."

[14] Release No. 33-6441.

[15] Release No. 33-6003.

[16] *See* Instruction 1 to Item 402(a) of Regulation S-K.

[17] In this connection, the Commission recently adopted a uniform definition of executive officer which is based on the performance of policy making functions. *See* note 13, *supra*.

The numerical approach taken by the existing requirement represents a fourth alternative. This approach, by requiring the remuneration of the five most highly compensated executive officers or directors, has the benefit of certainty, but it also may serve to be over- or under-inclusive in particular cases. It should be noted, however, that the existing numerical requirement permits disclosure with respect to certain individuals to be omitted if: (1) Their placement among the five most highly compensated individuals results from such factors as unusually large bonuses or payments relating to overseas assignments; or (2) their remuneration does not exceed $50,000.

The Commission solicits commentators' views as to whether a standard for individual disclosure different from that proposed would be appropriate and, if so, what that standard should be and the rationale behind such standard. Commentators may find the following data, drawn from the remuneration disclosure in the 1981 proxy statements of approximately 676 companies,[18] helpful in their consideration of this issue. This data relates to the individuals named in remuneration disclosure as well as to the persons included in the group disclosure.

The first three tables present data relating to the individual executive officers and directors with respect to whom remuneration disclosure was included in the proxy statements monitored. Table I indicates the percentage of the 676 companies that included remuneration disclosure with respect to more than 5 individuals, the percentage that named 5 individuals and the percentage that named fewer than 5 individuals. Table II indicates, with respect to the 492 companies which named 5 or more individuals, the percentage of companies where all those named were executive officers and directors or directors only and the percentage of companies where 4, 3, 2, and 1, respectively, of those named were officer/directors or directors. Table III presents data with respect to the 166 companies that included fewer than 5 individuals in their remuneration disclosure, indicating: (1) the number of companies who named 4, 3, 2, and 1 individuals, respectively; and (2) within each such category, the proportion of those named who were officer/directors or directors.[19]

Table IV relates to the disclosure of remuneration for all officers and directors as a group. This table indicates the number of members included in the group disclosure by presenting the percentage of all proxy statements monitored which included a number falling in one of six ranges from fewer than 9 to 50 or more. Table IV also presents the average number of group members.

TABLE I.—NUMBER OF INDIVIDUAL EXECUTIVE OFFICERS AND DIRECTORS NAMED

	More than 5	5	Fewer than 5
Percentage of companies	3	73	[1]24

[1] This percentage includes 18 companies that did not name any individuals in the Remuneration Table.

TABLE II.—COMPANIES NAMING 5 OR MORE INDIVIDUALS

[Number of officer/directors and directors among individuals named in remuneration table]

	5 or more	4	3	2	1
Percentage of companies	14	16	31	25	12

TABLE III.—166 COMPANIES NAMING FEWER THAN 5 INDIVIDUALS

Proportion of individuals named that are officer/directors or directors	Number of individuals named in remuneration table (in percent)			
	4	3	2	1
All	19	30	59	97
¾ to ¾	28	32		
Half	36		41	
¼ to ½	17	35		
None		3		3
Total	100 (56 cos.)	100 (34 cos.)	100 (41 cos.)	100 (35 cos.)

A. *Number of members in Group:*

TABLE IV.—OFFICER AND DIRECTORS AS A GROUP

	Fewer than 9	10 to 19	20 to 29	30 to 39	40 to 49	50 or more
Percentage of companies	11	43	26	10	5	5

B. *Average number of members in group: 22.*

Proposed Item 402(a)(2). Bonuses and Deferred Compensation. In addition to cash remuneration earned during the registrant's last fiscal year that has been paid, proposed Item 402(a) would require certain unpaid cash bonuses, cash bonuses earned in a previous year and deferred compensation to be included in the Cash Remuneration Table. Proposed Item 402(a)(2)(i) would require disclosure of all cash bonuses to be paid to the named individuals and the group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year unless such amounts have not been allocated at the time remuneration disclosure is filed. This provision is intended to address the situation where bonuses were earned during the fiscal year but have not yet been paid. If the registrant knows the amounts that are to be paid to the named individuals and groups, those amounts would be included in the Cash Remuneration Table.

In many instances, however, the registrant will have set aside a bonus pool but will not have determined, at the time remuneration disclosure is filed, the specific amounts to be paid to the named individuals and the group. In such cases, the bonuses would not be reported for the year in which they were earned. They, therefore, would be required to be disclosed in the year they were paid pursuant to proposed Item 402(a)(2)(ii), which provides that cash bonuses paid to the named individuals and group for services rendered in a prior fiscal year shall be included in the Cash Remuneration Table. In order to prevent the same bonuses from being reported twice, proposed Item 402(a)(2)(ii) also provides that such bonuses need not be reported in the year they were paid if they are disclosed in the Cash Remuneration Table in a prior fiscal year or would have been so reported had the named individual or group member been included in the Cash Remuneration Table for the prior fiscal year.

[18] These 676 companies were randomly selected from the 1200 companies selected to constitute a representative sample of all registered issuers with publicly traded securities monitored in connection with the Commission's 1978–81 Proxy Statement Disclosure Monitoring Program. For further discussion of the sampling technique in the selection of the 1200 companies, *see* Release Nos. 34–17518 (February 5, 1981) [46 FR 11954] and 34–18532 (March 3, 1982) [47 FR 10792].

[19] The eighteen companies that named no individuals are included in Table I but not in Table II or Table III.

Finally, proposed Item 402(a)(2)(iii) provides that the Cash Remuneration Table shall include all remuneration that would have been paid in cash to the name individuals or group for services rendered to the registrant and its subsidiaries during the last fiscal year but for the fact that the payment of such remuneration was deferred. This provision is intended to cover remuneration that is due to the named individuals or group but the payment of which has been deferred, either voluntarily by the individual or pursuant to the provisions of an agreement.

Proposed Instruction to Item 402(a). Proposed Item 402(a) contains an instruction regarding the determination of those persons who should be included in the Cash Remuneration Table. The substance of the proposed Instruction is essentially the same as that of existing Instruction 2 to Item 402(a).

B. Proposed Item 402(b). Plan Descriptions and Remuneration.

Proposed Item 402(b) would cover disclosure of all plans pursuant to which the registrant has paid during the last fiscal year, or proposes to pay in the future, any form of remuneration. Proposed Item 402(b) is derived, in large part, from existing Item 402(b) concerning plan descriptions. However, amounts paid pursuant to plans, which currently are included in the Remuneration Table pursuant to existing Item 402(a), generally would not be included in the new Cash Remuneration Table but would be disclosed under proposed Item 402(b).

Disclosure of plans pursuant to proposed Item 402(b) would not be required to be made in any particular form, with the exception of those covered by the Pension Table, discussed below. A registrant would be free to use a narrative, tabular or other format, or combination of formats, to present the information in a manner that may be readily understood by security holders and investors.

Proposed Item 402(b)(1). Remuneration Pursuant to Plans. Proposed Item 402(b)(1) would require the registrant to describe briefly all plans pursuant to which cash or non-cash remuneration was paid or distributed during that last fiscal year, or is to be paid or distributed in the future, to the named individuals and group included in the Cash Remuneration Table. As is the case under existing Item 402, a specific exemption would be provided for nondiscriminatory group life, health, hospitalization or medical reimbursement plans. The proposed exception would also cover nondiscriminatory relocation plans, consistent with previous staff interpretations.[20]

Proposed Items 402(b)(1) (i) through (vii) would specify information that is to be included in the description of various plans.[21] Paragraphs (b)(1) (i) through (v) would require information that currently is required to be included in plan descriptions under existing Item 402. The Commission proposes to make clear, however, that the summary of how a plan operates, as required by proposed Item 402(b)(1)(i), should include the persons covered by the plan, consistent with current practice.[22]

Proposed paragraphs (b)(1)(vi) and (vii) are intended to provide security holders with more understandable disclosure concerning amounts paid or to be paid to management pursuant to various plans. Paragraph (b)(1)(vi) would require disclosure, in connection with the description of a plan, of remuneration paid or distributed under the plan during the last fiscal year. Thus, disclosure would be made of amounts of securities,[23] property, cash [24] or other remuneration paid or distributed pursuant to plans during the last fiscal year. Such amounts currently are not required to be disclosed specifically in connection with plan descriptions but are set forth in various forms and locations throughout the remuneration disclosure.[25]

Paragraph (b)(1)(vii) would require disclosure of amounts accrued pursuant to plans for the accounts of the named individuals or group during the last fiscal year, the distribution or unconditional vesting of which is not subject to future events. Thus, disclosure would be required of amounts contributed to various compensation plans, such as stock purchase plans, profit sharing or thrift plans, that have become vested during the year, without regard to the year in which the contribution was made. In contrast to current Item 402, disclosure would not be required of amounts allocated to plans, the distribution or unconditional vesting of which is subject to future events.[26] The Commission believes that security holders and investors would be provided with adequate information about the costs of various remunerative plans if they are apprised of actual payments and amounts that vested during that year.[27]

The Commission requests specific comment on an issue related to plan disclosure. Under proposed Item 402(b), interest received on deferred compensation or dividends received on restricted stock would be required to be disclosed for the year in which they were paid. Such payments currently are required to be disclosed as remuneration under existing Item 402. The Commission requests comment, however, as to whether interest on deferred compensation or dividends on restricted stock should continue to be treated as remuneration.

Proposed Instructions to Item 402(b) Relating to Remuneration Pursuant to Plans. Proposed Item 402(b) contains two instructions relating to the plan descriptions under Item 402(b)(1). Proposed Instruction 1 would make clear that, when describing a plan pursuant to which the registrant has made cash payments during the last fiscal year, a registrant need not repeat disclosure under proposed Item 402(b)(1)(vi) if such cash payments were for services rendered in the last fiscal year, or were

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[20] A similar addition is proposed to be made to Instruction 3(b) to Item 9 of Schedule 14A.

[21] The information required by paragraphs (b)(1)(vi) and (vii) concerning amounts paid or to be paid would not be required in connection with defined benefit or actuarial plans, nor would the information required by paragraph (b)(1)(vii) be required in connection with stock option or stock appreciation right ("SAR") plans. Information regarding payments under defined benefits plans would be covered, instead, by proposed Items 402(b) (2) and (3). Information concerning the grant of stock options or SARs would be covered by proposed Item 402(b)(4).

[22] Such persons would not be required to be mentioned by name if the coverage of the plan could be described in terms of the categories of persons covered (e.g., directors who are employed by the registrant, all salaried employees, etc.). The Commission contemplates, however, that, if a generic category is used to describe the persons covered, such as "certain key employees," the registrant will provide any additional information that is necessary to describe adequately the coverage of the plan, such as the number of persons covered.

[23] This would include, for example, disclosure of amounts of stock allocated in an earlier year but with respect to which certain conditions on the vesting of such shares, such as the fulfillment of a specified retention period, are met in the last fiscal year.

[24] As discussed above, the Cash Remuneration Table does not cover cash paid for services rendered in a previous fiscal year, except for bonuses. Accordingly, cash paid during the last fiscal year pursuant to a plan for services rendered in a previous year would be covered by proposed Item 402(b)(1). Similarly, cash paid on the exercise of stock appreciation rights granted in a previous year would be covered by proposed Item 402(b)(1).

[25] For example, under existing Item 402, a cash value is required to be given to securities awarded pursuant to a plan for services rendered during the last fiscal year and such value is included in the Remuneration Table pursuant to Item 402(a).

[26] Such contingent amounts currently are required to be included in Column D of the Remuneration Table.

[27] If proposed Item 402(b)(1) is adopted, there may be instances in which of remuneration reported as vested pursuant to a plan would be reported again in a subsequent year when it was actually paid or distributed. In such instances, registrants may explain that amounts reported as paid or distributed represent amounts previously reported as vested.

bonuses for services in that or the previous year, and thus were included in the Cash Remuneration Table.[28] Similarly, disclosure, pursuant to proposed Item 402(b)(1)(vii), of cash amounts that have been deferred would not be required if such amounts were reported in the Cash Remuneration Table. In both cases, however, the registrant would be required to state that the cash amounts paid or deferred pursuant to the plan have been included in the Cash Remuneration Table.

Proposed Instruction 2 would define the term "plan" to include, as does the current definition, "any plan, contract, authorization or arrangement, whether or not set forth in any formal documents." The Instruction would make clear, however, that registrants would be expected to describe all plans pursuant to proposed Item 402(b), regardless of the type of remuneration involved. The Instruction also would state, consistent with previous staff interpretations, that a plan may be applicable to only one person.

Proposed Item 402(b)(2). Pension Table. Defined benefit or actuarial plans would be required to be described, as would other remunerative plans, pursuant to proposed Item 402(b)(1). Proposed Item 402(b)(2) specifies information that would be required to be included in the description of certain defined benefit or actuarial plans.

Specifically, proposed Item 402(b)(2) would require that the registrant, in describing the payment schedule, include a Pension Table, an example of which is set forth in the Item, showing estimated annual benefits payable upon retirement to persons in specified remuneration and years-of-service classifications. The Pension Table requirements, as proposed, are the same as those currently contained in Item 402. Proposed Item 402(b)(2) would make clear, however, that the requirement to include a Pension Table only applies to defined benefit and actuarial plans under which benefits are determined primarily by final compensation (or average final compensation) and years of service.

Proposed Item 402(b)(2) also would clarify certain other information that is required to be included in the description of such defined benefit or actuarial plans. This information would be the same as that which currently is required to be included under existing Item 402 with one exception. The requirement to state the estimated credited years of service for each of the individuals named in the Remuneration Table (the Cash Remuneration Table, in the case of the proposed Item) is proposed to be amended to require credited years of service as of normal retirement age. The Commission believes that this change would enable security holders and investors to better understand what amounts might be paid out pursuant to various pension plans.

Proposed Item 402(b)(3). Alternative Pension Plan Disclosure. Proposed Item 402(b)(3) would specify certain items of information to be included in a description of defined benefit or actuarial plans under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, and thus for which the Pension Table under proposed Item 402(b)(2) is not appropriate. These items of disclosure are proposed to be the same as those required for such plans under existing Item 402.[29]

Proposed Instructions to Item 402(b) Regarding Pension Plan Disclosure. Proposed Item 402(b) contains two instructions relating to pension plan disclosure. Proposed Instruction 3 would provide guidance to registrants concerning appropriate levels of compensation to be included in a Pension Table. The substance of the Instruction is the same as that contained in existing Instruction 2 to Item 402(b).

Proposed Instruction 4 would define the term "normal retirement age." The definition would be the same as that currently contained in Instruction 3 to Item 402(b).

Proposed Item 402(b)(4). Stock Option and Stock Appreciation Right Plans. Stock option or stock appreciation right plans are among the remunerative plans required to be described pursuant to proposed Item 402(b)(1). Proposed Item 402(b)(4) sets forth certain specific information, concerning the options or SARS granted during the last fiscal year, that would be required to be disclosed in connection with such plans. Derived from existing Item 402(d),[30] the new provisions generally would require disclosure of the amount of securities subject to options or rights granted during that year, the average per share exercise or base price thereof, and any compensatory element of stock options that may occur at the time such options or rights are granted.

Disclosure would not be required, however, of certain information that currently is required to be disclosed under existing Item 402(d), including the net value realized from the exercise of options during the period, the aggregate amount of securities underlying all unexercised options or stock appreciation rights and the potential (unrealized) value of such unexercised options or rights. The proposal would eliminate disclosure of the net value realized on the exercise of options because the exercise giving rise to the realization of compensation may be unrelated to the performance of services to the registrant. Moreover, this disclosure has contributed to the confusion and lack of comparability of remuneration disclosure under the existing provision. On the other hand, the net value realized on the exercise of options or SARs may represent compensation from the registrant to the grantee and thus may be appropriate for disclosure as remuneration. Accordingly, the Commission requests specific comment as to whether the requirement to disclose the net value realized from the exercise of options should be included in Item 402 and, if so, in what manner, or whether it is more appropriate to reflect the details of such a compensation element in the registrant's financial statements or elsewhere. The Commission also seeks specific comments as to whether the other information currently required by Item 402(d) should be retained.

C. *Proposed Item 402(c). Other Remuneration.* Proposed Item 402(c) is intended to cover all remuneration not covered by proposed Items 402(a) and (b). Currently, the value of such remuneration, which may take such forms as perquisites or property, is required to be disclosed under existing Item 402 in the Remuneration Table, except that disclosure of perquisites is subject to a limited exception.[31]

The burdens imposed on registrants under the existing requirements to keep track of non-cash remuneration such as perquisites are sometimes substantial. It has been the Commission's experience, however, that such remuneration often represents a small percentage of the

[28] Cash payments relating to services rendered over a period of years, including the last fiscal year, are not intended to be disclosed on an apportioned basis in both the Cash Remuneration Table and the description of the plan pursuant to Item 402(b) but, rather, to be disclosed entirely pursuant to Item 402(b).

[29] *See* existing Instruction 3 to Item 402(b).

[30] While the terms "option" and "stock appreciation right" are not defined in proposed Item 402, the Commission solicits specific comment as to whether such definitions should be included and, if so, what they should provide.

[31] The value of personal benefits received by any named individual or member of the group is not required to be included if the registrant cannot determine without unreasonable effort or expense the specific amount of certain personal benefits, or the extent to which the benefits are personal rather than business, and after reasonable inquiry, concludes that the aggregate amounts of such benefits cannot be specifically ascertaind do not exceed $10,000 for the individual.

total remuneration paid to management. The Commission is concerned that, in such circumstances, the burdens imposed on registrants to generate the information may outweigh the importance of such information to investment and voting decisions. On the other hand, the Commission continues to believe that, if perquisites or other non-cash remuneration represent a significant amount or percentage of total remuneration, investors and security holders should be provided with more detailed information.

Proposed Item 402(c) reflects the Commission's attempts to balance the needs of security holders and investors for meaningful information about such non-cash remuneration and the interests of registrants in not being unduly burdened. Specifically, proposed Item 402(c) would establish thresholds below which disclosure of such remuneration would not be required. For individuals named in the Cash Remuneration Table, the threshold, as proposed in Item 402(c)(1), is $10,000 or 10 percent of remuneration reported in the Cash Remuneration Table, whichever is greater. For all executive officers and directors as a group, the threshold, as proposed in Item 402(c)(2), is the greater of $10,000 multiplied by the number of persons in the group or 10 percent of the remuneration reported for the group in the Cash Remuneration Table. Proposed Item 402(c) also would provide that, if a registrant were to exclude other remuneration paid to any named individual(s) or the group on the basis that such remuneration was less than the threshold amounts, the registrant would be required to include a statement to that effect.

Proposed Instructions to Item 402(c). Proposed Item 402(c) contains two instructions. Proposed Instruction 1 would make clear that "other remuneration" that might be required to be disclosed pursuant to proposed Item 402(c) may take any form, including personal benefits, securities or property. Proposed Instruction 2 would make clear that the thresholds in propose Items 402(c)(1) and (2) are not *de minimis* exclusionary provisions. If a registrant has paid other remuneration in excess of the thresholds, all such remuneration, not just the amount in excess of the threshold, would be required to be reported.

D. *Proposed Item 402(d). Remuneration of Directors.* Proposed Item 402(d)(1) would require a registrant to describe any standard arrangement, including amounts, pursuant to which directors of the registrant are compensated. This Item is the same as existing Item 402(c) with a minor language change. Proposed Item 402(d)(2) would require a registrant to describe any other arrangement, in addition to or in lieu of any standard arrangement, pursuant to which any director of the registrant was compensated, stating the amount paid and the name of the director. This Item is based on existing Item 402(c)(2) but is proposed to be revised to make clear that payments made to a director during the last fiscal year as compensation for a number of years' services, including services in the last fiscal year, would be required to be disclosed. In this regard, the Commission requests specific comment as to whether proposed Item 402(d)(2) or proposed Item 402(e), discussed below, should be amended further to ensure disclosure of such payments to directors where the payment is made in the fiscal year after the director has resigned.[32]

E. *Proposed Item 402(e). Termination of Employment.* Proposed Item 402(e) is essentially the same as existing Item 402(i), with minor modifications. It would require a registrant to describe, unless previously disclosed in a proxy or information statement, any remunerative plan or arrangement with any individual named in the Cash Remuneration Table for the latest or next preceding year, if such a plan or arrangement results or will result from the resignation, retirement or any other termination of employment with the registrant and its subsidiaries and the amount involved, including all periodic payments or installments, exceeds $60,000.[33]

Currently, Instruction 2 to Item 402(i) sets the threshold for disclosure at $50,000. Proposed Item 402(e) would raise the threshold to $60,000 and would incorporate it into the text of the section. In addition, existing Item 402(i) requires a registrant to disclose any termination plan or arrangement if such a plan or arrangement results or would result from, among other things, "any other termination by such individual of employment" with the registrant and its subsidiaries. Proposed Item 402(e) would revise that clause to make clear that the section is triggered by "any other termination of employment" with the registrant and its subsidiaries, whether by the individual or otherwise.

The termination of employment provision was added to the remuneration disclosure requirements in 1980[34] because the Commission believed that such arrangements are significant in assessing a registrant's compensation policy, and its experience indicated that many registrants were not disclosing such arrangements. The Commission and some commentators noted at that time, however, that information regarding termination arrangements may have been required by already-existing provisions. Nevertheless, the Commission believed a separate provision necessary. While proposed Item 402(e), together with proposed Item 402(b), would retain substantially the same disclosure requirements concerning plans or arrangements intended to compensate executive officers or directors in the event of termination of employment, the Commission invites specific comment as to whether a separate provision continues to be necessary or creates any confusion or overlap. Moreover, the Commission invites specific comment as to whether additional disclosure requirements, such as whether such plans or arrangements were approved by shareholders, should be imposed in this area.

F. *Proposed General Instructions to Item 402.* Proposed Item 402 contains three instructions applicable to the entire item. Proposed Instruction 1 is the same as existing Instruction 1 to Item 402(a) concerning the applicability of Item 402 to foreign private issuers. Proposed Instruction 2, which is derived, in part, from current Instruction 6 to Item 402(a), is intended to make clear that registrants are permitted to use flexibility in responding to Item 402. Of particular importance is the new portion of the Instruction, which states that remuneration paid pursuant to plans may be disclosed in any form that fairly describes such remuneration. Finally, proposed Instruction 3, which is based on existing Instruction 5 to Item 402(a), makes clear that proposed Item 402 would apply to certain transactions with third parties.

G. *Proposed Amendments to Schedule 14A.* In conjunction with the proposed revision of Item 402, the Commission is proposing a number of coordinating amendments to three Items of Schedule 14A: Item 9 (Bonus, profit sharing and other remuneration plans), Item 10 (Pension and retirement plans) and Item 11 (Options, warrants or rights).

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[32] Payments made to a director upon the termination of such director's services are not required to be disclosed pursuant to existing Item 402(i) unless the director has been named as one of the five most highly compensated executive officers or directors pursuant to existing Item 402(a). This condition for disclosure of termination agreements is retained in proposed Item 402(e), based on existing Item 402(i).

[33] Where such plans compensate management in the event of a merger or takeover, they are commonly referred to as "golden parachutes."

[34] Release No. 33-6261.

Currently, information must be provided under these Items with respect to, among others, all officers and directors as a group. The Commission is proposing to make "all executive officers and directors" a separate category, in conformity with the proposed coverage of Item 402.

The Commission is proposing several additional changes in Item 9. First, the proposed deletion of certain information regarding stock options under current Item 402(d) (1) and (2) necessitates a technical change in Item 9, which references those sections. Accordingly, the Commission is proposing to delete the references to Item 402(d) (1) and (2) in Item 9 and to replace them with the substance of those sections.[35]

Second, the proposed amendments to Item 9 reflect: (1) the addition of relocation plans to those plans with respect to which information need not be given;[36] and (2) the revised reference to the definition of "plan" in Item 402.

Finally, the Commission is proposing to amend Item 9 in one additional respect. Item 9 currently requires a registrant to state the weighted average option price of per share for options granted that are other than "restricted" or "qualified" stock options as those terms are defined in Sections 422 through 424 of the Internal Revenue Code (the "Code").[37] Since restricted stock option provisions in Section 424 apply only to options granted before January 1, 1964, and restricted stock options granted thereunder had to be exercised prior to May 21, 1981, restricted stock options are now extinct. Accordingly, the Commission is proposing to delete the references to restricted stock and to Section 424 of the Code. At the same time, the Commission specifically request comment as to whether a reference to "incentive" stock options, covered by new Section 422A of the Code, should be added to Item 9 in order to permit registrants not to state the weighted average option price per share in the case of incentive stock options in view of the Code's limitations on the pricing of such stock options.

[35] The Commission will be reviewing the disclosure required by Items 9, 10 and 11, including that drawn from current Item 402(d) (1) and (2), in a later stage of the Proxy Review Program and invites commentators' suggestions as to revisions that might be made to these Items.

[36] *See* Note 20, *supra*.

[37] I. R. C. §§ 422–424.

List of Subjects in 17 CFR Parts 229 and 240

Reporting requirements, Securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. By revising § 229.402 to read as follows:

§ 229.402 (Item 402) Management remuneration.

(a)(1) *Cash remuneration.* Furnish, in substantially the tabular form specified, all cash remuneration paid to the following persons through the latest practicable date for services rendered in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year:

(i) *Five executive officers or directors.* Each of the registrant's five most highly compensated executive officers or directors whose cash remuneration required to be disclosed pursuant to this paragraph exceeds $60,000, naming each such person; and

(ii) *All executive officers and directors.* All executive officers and directors as a group, stating the number of persons in the group without naming them.

(2) *Bonuses and deferred compensation.* The Cash Remuneration Table also shall include:

(i) All cash bonuses to be paid to the named individuals and group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year unless such amounts have not been allocated at such time as remuneration disclosure is filed;

(ii) All cash bonuses paid during the last fiscal year for services rendered in all capacities to the registrant and its subsidiaries in a previous fiscal year, less any amount relating to the same contract, agreement, plan or arrangement included in the Cash Remuneration Table for a prior fiscal year and less any amount that would have been so included but for the fact that the individual was not included in the Cash Remuneration Table, as a named individual or as a member of the group, for such prior fiscal year; and

(iii) All remuneration that would have been paid in cash to the named individuals and group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year but for the fact that the payment of such remuneration was deferred.

CASH REMUNERATION TABLE

(A)	(B)	(C)
Name of individual or number in group	All capacities in which served.	Cash remuneration.

Instruction to Item 402(a)

Persons covered. (A) Paragraph (a) of this section applies to any individual who was an executive officer or director of the registrant at any time during the last fiscal year. Information need not be disclosed, however, for any portion of the period during which such individual was not an executive officer or director of the registrant, provided a statement to that effect is made. With respect to an individual who becomes for the first time an individual whose remuneration is to be reported in the Cash Remuneration Table, it is not necessary to report remuneration that would have been reported in the Table had the individual been included in prior years.

(B) Registrants should be flexible in determining which individuals should be named in the Cash Remuneration Table in order to ensure that disclosure is made with respect to key policy making members of management. Consideration should be given to the question of whether an individual's level of executive responsibilities, viewed in conjunction with such individual's actual level of cash remuneration, is such that the registrant reasonably may conclude that the person is among its five most highly compensated, key policy making executive officers. Under this standard, it may be appropriate, in certain circumstances, to include an executive officer of a subsidiary in the Cash Remuneration Table.

(C) In certain circumstances, it may be appropriate for a registrant not to include in the Cash Remuneration Table an individual who is one of the registrant's five most highly compensated executive officers or directors. Among the factors that should be considered in determining not to name an individual are: (i) The distribution or accrual of an unusually large amount of cash remuneration (such as a

bonus or commission) that is not part of a recurring arrangement and is unlikely to continue; and (ii) the payment of amounts of cash remuneration relating to overseas assignments that may be attributed predominantly to such assignments.

(b)(1) *Remuneration pursuant to plans.* Describe briefly all plans, pursuant to which cash or non-cash remuneration was paid or distributed during the last fiscal year, or is proposed to be paid or distributed in the future, to the named individuals and group specified in paragraph (a) of this section. Information need not be given with respect to any group life, health, hospitalization, medical reimbursement or relocation plans that do not discriminate, in scope, terms, or operation, in favor of officers or directors of the registrant and that are available generally to all salaried employees. The description of each plan shall include the following, except that the description of any defined benefit or actuarial plans need not include the information specified in paragraphs (b)(1)(vi) and (b)(1)(vii) of this section and the description of any stock option and stock appreciation right plan need not include the information specified in paragraph (b)(1)(vii) of this section:

(i) A summary of how the plan operates and who is covered by the plan;

(ii) The criteria used to determine amounts payable, including any performance formula or measure;

(iii) The time periods over which the measurement of benefits will be determined;

(iv) Payment schedules;

(v) Any recent material amendments to the plan;

(vi) Amounts paid or distributed pursuant to the plan to the named individuals and the group during the last fiscal year; and

(vii) Amounts accrued pursuant to the plan for the accounts of the named individuals and group during the last fiscal year, the distribution or unconditional vesting of which are not subject to future events.

(2) *Pension table.* As to defined benefit and actuarial plans, other than any defined benefit or actuarial plan under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include, as the payment schedule required by paragraph (b)(1)(iv) of this section, a separate Pension Table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) to persons in specified remuneration and years-of-service classifications. In addition, in furnishing the information required by paragraphs (b)(1)(i)–(v) of this section, include:

(i) The remuneration covered by the plan, including the relationship of such covered remuneration to the remuneration reported in the Cash Remuneration Table pursuant to paragraph (a) of this section, and state the current remuneration covered by the plan for any individual named in the Cash Remuneration Table whose covered remuneration differs substantially (by more than 10 percent) from that set forth in the Cash Remuneration Table;

(ii) The estimated credited years of service, as of normal retirement age, for each of the individual named in the Cash Remuneration Table; and

(iii) A statement as to the basis upon which benefits are computed (*e.g.*, straight life annuity amounts) and whether or not the benefits listed in the Pension Table are subject to any deduction for Social Security or other offset amounts.

EXAMPLE OF PENSION TABLE

Remuneration	Years of service				
	15	20	25	30	35
125,000	xxx	xxx	xxx	xxx	xxx
150,000	xxx	xxx	xxx	xxx	xxx
175,000	xxx	xxx	xxx	xxx	xxx
200,000	xxx	xxx	xxx	xxx	xxx
225,000	xxx	xxx	xxx	xxx	xxx

(3) *Alternative pension plan disclosure.* In furnishing the information required by paragraphs (b)(1)(i)–(v) of this section with respect to defined benefit or actuarial plans under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include:

(i) The formula by which benefits are determined; and

(ii) The estimated annual benefits payable upon retirement at normal retirement age for each of the individuals named in the Cash Remuneration Table pursuant to paragraph (a) of this section.

(4) *Stock option and stock appreciation right plans.* In addition to providing the information required by paragraphs (b)(1)(i)–(vi) of this section, furnish:

(i) With respect to stock options granted during the last fiscal year: (A) the title and aggregate amount of securities subject to options; (B) the average per share exercise price; and (C) if such option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date. The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately.

(ii) With respect to plans pursuant to which stock appreciation rights not in tandem with options were granted during the last fiscal year: (A) the number of rights granted; and (B) the average per share base price thereof.

Instructions to Item 402(b)

1. *Cash paid pursuant to plans.* The cash remuneration paid pursuant to a plan need not be disclosed as amounts paid or distributed pursuant to paragraph (b)(1)(vi) of this section if such remuneration was included in the Cash Remuneration Table pursuant to paragraph (a) of this section and a statement to that effect is made. Similarly, the cash remuneration deferred under a deferred compensation plan need not be disclosed as amounts accrued pursuant to paragraph (b)(1)(vii) of this section if such remuneration was included in the Cash Remuneration Table and a statement to that effect is made.

2. *Definition of "plan".* The term "plan" includes any plan, contract, authorization or arrangement, whether or not set forth in any formal documents, pursuant to which the following may be received: cash, stock, restricted stock, phantom stock, stock options, stock appreciation rights, stock options in tandem with stock appreciation rights, warrants, performance units and performance shares. A plan may be applicable to one person.

3. *Pension levels.* Remuneration set forth in the Pension Table pursuant to paragraph (b)(2) of the this section shall allow for reasonable increases in existing compensation levels; alternatively, registrants may present as the highest remuneration level in the Pension Table an amount equal to 120 percent of the amount of covered remuneration of the most highly compensated individual named in the Cash Remuneration Table pursuant to paragraph (a) of this section.

4. *Definition of "normal retirement age".* The term "normal retirement age" means normal retirement age as defined in a pension or similar plan or, if not defined therein, the earliest time at which a participant may retire without any benefit reduction because of age.

(c) *Other remuneration.* Describe, stating amounts, any other remuneration not covered by paragraphs (a) or (b) of this section that was paid or distributed during the last fiscal year to the named individuals and group specified in paragraph (a) of this section unless:

(1) With respect to any named individual, the aggregate amount of such other remuneration is less than the greater of $10,000 or 10 percent of the remuneration reported in the Cash Remuneration Table for such person pursuant to paragraph (a) of this section

and a statement to that effect is made; or

(2) With respect to the group, the aggregate amount of such other remuneration is less than the greater of $10,000 times the number of persons in the group or 10 percent of the remuneration reported in the Cash Remuneration Table for the group pursuant to paragraph (a) of this section and a statement to that effect is made.

Instructions to Item 402(c)

1. *Scope.* Remuneration to be disclosed pursuant to this paragraph may include, among other things, personal benefits, securities or property that were paid or distributed other than pursuant to a plan.

2. *Threshold.* If the amount of other remuneration for a named individual or the group exceeds the established thresholds, the entire amount of such other remuneration must be disclosed pursuant to this paragraph.

(d) *Remuneration of directors.*

(1) *Standard arrangements.* Describe any standard arrangement, stating amounts, pursuant to which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

(2) *Other arrangements.* Describe any other arrangments pursuant to which any director of the registrant was compensated during the registrant's last fiscal year for services as a director, stating the amount paid and the name of the director.

(e) *Termination of employment.* Unless previously disclosed by the registrant in a proxy or information statement filed pursuant to Section 14 of the Exchange Act or disclosed in response to any other paragraphs of this section, describe any remunerative plan or arrangement, including payments to be received from the registrant, with respect to any individual named in the Cash Remuneration Table pursuant to paragraph (a) of this section for the latest or then next preceding fiscal year if such a plan or arrangement results or will result from the resignation, retirement or any other termination of such individual's employment with the registrant and its subsidiaries and the amount involved, including all periodic payments or installments, exceeds $60,000.

General Instructions to Item 402

1. *Foreign private issuers.* A non-Canadian foreign private issuer may respond to all of Item 402 by indicating the aggregate payments or benefits paid or to be paid to all executive officers and directors as a group unless such registrants disclose to their security holders or otherwise make public the information specified in this section for individually named executive officers and directors, in which case such information also shall be disclosed.

2. *Presentation of disclosure.* With respect to the disclosure required pursuant to paragraph (a) of this section, the registrant may provide additional disclosure through one or more footnotes to the Cash Remuneration Table, through additional lines or columns, or otherwise. Similarly, with respect to the disclosure requird pursuant to paragraph (b) of this section, a registrant may describe remuneration paid or proposed to be paid pursuant to plans in tabular from or any other form that fairly describes such remuneration. For example, a registrant may disclose stock options and stock appreciation rights granted during the last fiscal year in a tabular format.

3. *Transactions with third parties.* This section includes transactions between the registrant and a third party where the primary purpose of the transaction is to furnish remuneration to any named individual or the group specified in paragraph (a) of this section. No information need be given in response to any paragraph of this section as to any such transaction if the transaction has been reported in response to Item 404 of Regulation S–K (§ 229.404 of this chapter).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

2. By revising paragraphs (b) and (d) and Instructions 1 and 3 of Item 9; paragraphs (b) and (d) and Instruction 1 of Item 10; and paragraphs (b) and (c) and Instruction 1 of Item 11 of § 240.14a–101 to read as follows:

§ 240.14a–101 Schedule 14A—Information required in proxy statement.

* * * * *

Item 9. Bonus, profit sharing and other remuneration plans. * * *

(b) State separately the amounts which would have been distributable under the plan during the last fiscal year of the issuer to (1) all current directors and executive officers as a group, (2) all other current officers as a group, and (3) all employees if the plan has been in effect.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 402 of Regulation S–K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect, or in effect within the past five years, for: (1) Each director or executive officer named in answer to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon, (2) all current directors and executive officers of the issuer as a group, if any director or executive officer may participate in the plan, (3) all other current officers of the issuer as a group, if any other officer may participate in the plan, and (iv) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in Instruction 2 to Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter).

* * * * *

3. The following instructions shall apply to paragraph (d):

(a) Information need only be given with respect to benefits received or set aside within the past five years.

(b) Information need not be included as to payments made for, or benefits to be received from, group life or accident insurance, group hospitalization, group relocation or similar group payments or benefits.

(c) If action is to be taken with respect to any plan in which directors or executive officers may participate, furnish the following information for the last five fiscal years of the issuer and any period subsequent to the end of the latest such fiscal year in aggregate amounts for the entire period for each such person and group: (1) As to options granted during the specified period, state the title and aggregate amount of securities subject to options, the average per share exercise price, and, if the option price was less than 100 percent of the market value of the security on the date of the grant, such fact and the market price on such date (The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately); and (2) As to the exercise or realization of options or stock appreciation rights held in tandem with options granted during the specified period or prior thereto, state the net value of securities (market value less any exercise price) or cash realized during the specified period. If any named person, or any other director or executive officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and by such named person and such other directors and executive officers as a group. If other officers or employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to such other officers or employees, respectively, during the five-year period and, if the options were other than for "qualified" stock options or options granted pursuant to an "employee stock purchase plan", as the quoted terms are defined in Sections 422 through 423 of the Internal Revenue Code, state that fact and the weighted average option price per share.

* * * * *

Item 10. Pension and retirement plans. * * *

(b) State (1) The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated annual payments necessary to pay the total amount over such period; (2) the estimated annual payment to be made with respect to current services; and (3) the amount of such annual payments to be made for the benefit

of (i) directors and executive officers, (ii) all other officers and (iii) employees.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 402 of Regulation S-K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (1) Each director or executive officer named in answer to Item 402(a) of Regulation S-K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon; (2) all current directors and executive officers of the issuer as a group, if any director or executive officer may participate in the plan; (3) all other current officers of the issuer as a group, if any other officer may participate in the plan; and (4) all employees, if employees may participate in the plan.

* * * * *

Instructions 1. The term "plan" as used in this item means any plan as defined in Instruction 2 to Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter). Instruction 2 to Item 9 shall apply to this item.

* * * * *

Item 11. Options, warrants or rights. * * *

* * * * *

(b) State separately the amount of options, warrants, or rights received or to be received by the following persons, naming each such person: (1) Each director or executive officer named in answer to Item 402(a) of Regulation S-K (§ 229.402(a) of this chapter); (2) each nominee for election as a director, (3) each associate of such directors, executive officers or nominees; and (4) each other person who received or is to receive 5 percent of such options, warrants or rights. State also the total amount of such options, warrants or rights received or to be received by all directors and executive officers of the issuer as a group, without naming them.

(c) Furnish such information, in addition to that required by this item and Item 402 of Regulation S-K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (1) each director or executive officer named in answer to Item 402(A) of Regulation S-K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon; (2) all current directors and executive officers of the issuer as a group, if any director or executive officer may participate in the plan; (3) all other current officers of the issuer as a group, if any other officer may participate in the plan; and (4) all employees, if employees may participate in the plan.

Instructions 1. The term "plan" as used in this item means any plan as defined in Instruction 2 to Item 402(b) of Regulation S-K (§ 229.402(b) of this chapter).

* * * * *

[FR Doc. 83-1903 Filed 1-25-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-1-83]

Certain Elections Under the Subchapter S Revision Act of 1982

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations section of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to: (1) The time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982 and (2) the taxable year which a corporation may select in order to make the election to be an S corporation. The text of those temporary regulations also serves as the common document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered by March 28, 1983. The proposed regulations are proposed to have the same effective dates as the temporary regulations.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-1-83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Ginsburgh of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations section of this issue of the **Federal Register** retitiles and revises 26 CFR Part 18. The final regulations which are proposed to be based on that temporary regulation would amend 26 CFR Part 1.

For the text of the temporary regulation, see FR Doc. 83-2029 (T.D. 7872) published in the Rules and Regulations section of this issue of the **Federal Register**.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that his proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1980. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

List of Subjects in 26 CFR 1.1361-1—1.1388-1

Income taxes, Small business, Subchapter S corporation, Cooperatives.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-2030 Filed 1-21-83; 10:43 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 12-82]

Privacy Act of 1974; Production or Disclosure of Material or Information

AGENCY: Justice Department.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to amend 28 CFR 16.101, "Exemption of U.S. Marshals Service Systems—Limited access, as indicated," to provide additional specificity as to statutory authorities; to make editorial changes; and to promulgate a new exemption. The exemption will preclude serving "notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public

record." 5 U.S.C. 552a(e)(8). The exemption is necessary because the individual notice requirement would present a serious impediment to law enforcement in that it would give persons sufficient warning to avoid warrants, subpoenas, etc. The other changes have no effect on the public.

DATE: All comments must be received by February 8, 1983.

ADDRESS: All comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202–633–3452).

SUPPLEMENTARY INFORMATION: Section 16.101 is amended to provide additional specificity as to the statutory authority for the current exemption of the Warrant Information System, JUSTICE/USM–007; the change the name of the Internal Inspection Information System, JUSTICE/USM–002 to Internal Investigations System, JUSTICE/USM–002 to correspond with the name change as published in the Notices section of today's **Federal Register**; to provide additional specificity as to the statutory authority for the current exemption of this system; to additionally exempt this system from subsection (e)(8) of the Privacy Act; and to make minor editorial changes. The Internal Investigations System, JUSTICE/USM–002 is being republished in full text in the Notices section of today's **Federal Register** to reflect the proposed exemption and other revisions. The Warrant Information System, JUSTICE/USM–007 will be republished in the Department's upcoming annual publication to reflect the same editorial change made here to § 16.101.

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, Sunshine Act.

The authority for this proposed rule is 5 U.S.C. 552a.

Accordingly, it is proposed that 28 CFR 16.101 be amended as set forth below.

Dated: December 20, 1982.

Kevin D. Rooney,

Assistant Attorney General for Administration.

PART 16—[AMENDED]

Section 16.101 is amended by revising paragraph (a)(1), introductory text to paragraph (e), paragraphs (e)(1), (f) (1) and (2); by redesignating the existing paragraphs (f)(7) and (f)(8) as (f)(8) and (f)(9), respectively; and by adding a new paragraph (f)(7).

§ 16.101 Exemption of U.S. Marshals Service Systems—Limited access, as indicated.

(a) * * *

(1) Warrant Information System (JUSTICE/USM–007).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C 552a(j) (2).

* * * * *

(e) The following system of records is exempt from 5 U.S.C. 552 (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (f) and (g) and may be additionally exempt from subsection (e)(8):

(1) Internal Investigations System (JUSTICE/USM–002)—Limited access.

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(5) or (j)(2).

(f) * * *

(1) From subsection (c)(3) where the release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act would reveal a source who furnished information to the Government in confidence.

(2) From subsection (c)(4) for the reason stated in (b)(2) of this section.

* * * * *

(7) From subsection (e)(8) for the reason stated in (b)(7) of this section.

* * * * *

[FR Doc. 83–2100 Filed 1–25–83; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 939

Surface Mining and Reclamation Operations Under a Federal Program for Rhode Island

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

ACTION: Postponement of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the postponement of the public hearing scheduled on the proposed Federal program for the regulation of surface coal mining and reclamation in Rhode Island, at the State's request and extension of the period for submitting written comments on the proposed Federal program.

DATE: The new deadline for submission of written comments is March 9, 1983. The public hearing on the proposed Federal program for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Rhode Island is rescheduled for March 2, 1983, to be held at 12:00 noon at the place listed below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand delivered to: Administrative Record Room (R&I–19), Office of Surface Mining, Pennsylvania Field Office, 100 Chestnut Street, Suite 300, Harrisburg, Pennsylvania 17101.

The public hearing on the proposed program will be held at: The John O. Pastore Federal Building, Room 309 Exchange Terrace, Providence, Rhode Island 02903.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, 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 December 22, 1982, the Office of Surface Mining proposed a Federal program for the State of Rhode Island (47 FR 57246) which would regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Rhode Island. The proposed Federal program provided for a public hearing to be held to receive comments. It further provided that if commenters requested a hearing date later than that set, OSM would consider postponing the hearing until a later time. OSM received such a request from Rhode Island. The Director of OSM has determined that the request is reasonable, and is, therefore, rescheduling the public hearing for March, 2, 1983, to be held at the time and location listed above under **"ADDRESSES."**

This announcement also extends the time period during which interested persons may submit written comments on the proposed Federal program. Written comments must be received at the location listed above under **"ADDRESSES"** on or before 5:00 p.m., on March 9, 1983, to be considered.

Dated: January 19, 1983.

William B. Schmidt,

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

[FR Doc. 83–2003 Filed 1–25–83; 8:45 am]

BILLING CODE 4310–05–M

Notices

Federal Register
Vol. 48, No. 18
Wednesday, January 26, 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

Forms Under Review by Office of Management and Budget

January 21, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer (202) 447-6201.

New

• Agricultural Marketing Service
Administrative Information Collection for Proposed Amendment to Marketing Order 910 and Proposed Marketing Agreement
Nonrecurring
Farms and businesses: 175 responses; 102 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

Extension

• Forest Service
Pilot Qualification and Approval Record, Aircraft Data and Approval Record FS-5700-20 and FS-5700-21
Individuals or households and businesses or other institutions: 1,750 responses; 1,375 hours; not applicable under 3504(h)
Mary Barr (703) 235-8666

Galen Hart,

Acting Statistical Clearance Officer.

[FR Doc. 83-2076 Filed 1-25-83; 8:45 am]

BILLING CODE 3410-01-M

Commodity Credit Corporation

Rate of Interest on Delinquent Debts

ACTION: Notice of rate of interest on delinquent debts.

SUMMARY: This notice sets forth the rate of interest which the Commodity Credit Corporation (CCC) is charging on delinquent debts. Publication of this interest rate in the **Federal Register** by CCC is in accordance with the regulations found at 7 CFR Part 1403, Interest on Delinquent Debts. In the absence of a different rule prescribed by statute, contract or regulation, it has been determined that the applicable rate which is to be charged by CCC on delinquent debts is 13.00 percent per annum.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Peggy Waters, Claims Specialist, Fiscal Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C., 20013, (202) 475-4499.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformance with Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been classified as "not major." It has been determined that the provisions of this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a major impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

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

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101 through 105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 951-953). CCC is generally exempt from the provisions of the FCCS, since CCC has the authority under Section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of all its claims. However, the Board of Directors, CCC, has administratively determined that the FCCS shall be applicable to all claims by CCC regardless of the amount (CCC Claims Policy Docket CZ 161a, Revision 4).

The FCCS requires that interest be charged on delinquent debts. In accordance with the FCCS, CCC issued the regulations at 7 CFR Part 1403, Interest on Delinquent Debts (see 46 FR 71442), to provide that CCC will charge interest on delinquent debts. These regulations provide at 7 CFR 1403.5 that CCC will publish a rate of interest to be charged on delinquent debts as a notice in the **Federal Register.**

Accordingly, the rate of interest which will be charged by Commodity Credit Corporation January 25, 1983 with respect to delinquent debts shall be 13.00 percent per annum.

Signed at Washington, D.C. on: January 20, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-2075 Filed 1-25-83; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Order 83-1-78; Docket 41071]

Application of Akron/Canton Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting the *Akron/Canton Airlines, Inc. Fitness Investigation*, 83-1-78, Docket 41071.

SUMMARY: The Board is instituting an investigation to determine the fitness of Akron/Canton Airlines to engage in the interstate and overseas air transportation of persons, property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii.

DATES: Persons wishing to intervene in the *Akron/Canton Airlines, Inc. Fitness Investigation* shall file their petitions in Docket 41071 by February 4, 1983.

ADDRESSES: Petitions to intervene should be filed in Docket 41701, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on persons listed in the Attachment and on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Phyllis C. Solomon, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-1-78 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-1-78 to that address.

By the Bureau of Domestic Aviation: January 20, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2118 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40350]

North Pacific Airlines Fitness Investigation; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled matter will be held on February 7, 1983, at 10:00 a.m. (local time), in Room 1012, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 20, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83-2117 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Receipt of Application for Permit; Aquarium of Niagara Falls

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name, Aquarium of Niagara Falls (P99B). b. Address, 701 Whirlpool Street, Niagara Falls, New York 14301.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus) 3.

4. Type of Take: To take for permanent maintenance.

5. Location of Activity: Mississippi Sound.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application 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, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 21, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2133 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Marineland S.A.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name, Marineland S.A. (P72B). b. Address, Costa d'en Blanes, Palma Nova, Mallorca Spain.

2. Type of Permit Public Display.

3. Name and Number of Animals: California sea lions (Zalophus californianus) 4. Atlantic bottlenose dolphin (Tursiops truncatus) 4.

4. Type of Take: To obtain captive born California sea lions from the United States and to take from the wild Atlantic bottlenose dolphins from the Southeastern Texas Coast.

5. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of

such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government.

(b) It includes: i. A certification from such appropriate government agency verifying the information set forth in the application; ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms; iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministry of Agriculture and Fishing in the Balearic Islands have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application 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, St. Petersburg, Florida 33702.

Dated: January 21, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2131 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit; Oregon State University

On December 1, 1982, Notice was published in the Federal Register (47 FR 54135), that an application had been filed with the National Marine Fisheries Service by Dr. Bruce R. Mate, Oregon State University, Newport, Oregon, 97365 for a permit to take gray whales by radio tagging and inadvertent harassment for the purposes of scientific research.

Notice is hereby given that on January 20, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Scientific Research Permit to Dr. Bruce R. Mate for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska, 99802;

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, N.E., Seattle, Washington 98115; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 20, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2132 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Letter of Authorization

The National Marine Fisheries Service has issued a Letter of Authorization under the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to On-Ice Seismic Activities to the following: Marine Technical Services, Inc., 12725 Royal Drive, P.O. Box 1369, Stafford, Texas 77477, January 19, 1983.

This Letter of Authorization is valid for 1983, and is subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing Small Take of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B). This Letter is in addition to four others issued under the same authorization on January 14, 1983. Issuance of this letter does not change the original finding that the level of taking will have a negligible impact on the ringed seal species or stock and its habitat and its availability for subsistence use since this Letter was issued due to a change in contractors and not a change in geographic area covered or the methods of exploration used.

This Letter of Authorization 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, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Dated: January 17, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2134 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

National Ocean Service; Approval of Amendment No. 1 to the New Jersey Coastal Program

Notice is hereby given that the Office of Ocean and Coastal Resource Management has approved an amendment to the New Jersey Coastal Program effective January 11, 1983. The amendment adds the newly established New Jersey Coastal Resources and Development Policy entitled "Wetlands Buffer" (N.J.A.C. Section 7:7E-3.27).

Notice of intent to approve this amendment was printed in the **Federal Register** and interested parties had until November 4, 1982, to comment. A copy of the amendment to the New Jersey coastal program was distributed to all Federal agencies. Interested parties wishing to obtain copies of the amendment may request copies from: Doris Grimm, North Atlantic Region Program Officer, Coastal Programs Division, Office of Ocean and Coastal Resource Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

(Federal Domestic Assistance Catalog No. 11.419; Coastal Resource Management Program Administration.)

Dated: January 20, 1983.

William Matuszeski,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-2155 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-08-M

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: Bureau of the Census
Title: 1982 Census of Transportation; 1984 Commodity Transportation Survey—Reporting Procedure Study
Form numbers: Agency—TC-9401(F); TC-9401(S); TC-9402
Type of request: New
Burden: 1,500 respondents; 375 reporting hours
Needs and uses: The Commodity Transportation Survey is the only Federal program which measures the flow of commodities from origin to destination and by mode of transportation. This Reporting Procedure Study will validate improved data collection procedures to be incorporated into the final survey design.
Affected public: A sample of respondents will be selected from establishments classified in manufacturing, minerals, and wholesale trade
Frequency: Nonrecurring
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395-4814
Agency: National Oceanic and Atmospheric Administration
Title: Merger of Application for Certificate of Inclusion and Application for General Permits to Take Marine Mammals
Form numbers: OMB—0648-0083 and 0101
Type of request: Revision
Burden: 2,315 respondents; 983 reporting hours
Needs and uses: General permits and certificates of inclusion are issued solely as a benefit to fishermen to prevent them from prosecution under the Marine Mammal Protection Act for violation of the moratorium on the "taking" of marine mammals while fishing.
Affected public: Commercial fishermen
Frequency: Annually; biennially
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Ken Allen, 395-3785
Agency: National Oceanic and Atmospheric Administration
Title: Application for Federal Fisheries Permit
Form number(s): Agency—NOAA 88-155; OMB-0648-0097
Type of request: Extension
Burden: 10,000 respondents; 5,000 reporting hours
Needs and uses: The application provides information required for issuance of a permit to domestic fishermen engaged in fishing in the U.S. Fishery Conservation Zone. The permit is used to enumerate the number of participants in individual fisheries and to monitor the level of fishing activity.
Affected public: U.S. fishermen/dealers
Frequency: On occasion
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Ken Allen, 395-3785

Copies of the above information collection proposals 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 the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83-2134 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-CW-M

Patent and Trademark Office

Current Membership of Performance Review Board

This notice announces the current membership of the Performance Review Board for the Patent and Trademark Office. Since the last announcement of the membership in the **Federal Register** of March 8, 1982 (47 FR 9878), two of the members have left the agency and two new members have been appointed. The former members who have left the agency are:

Richard J. Shakman, Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231

Herbert C. Wamsley, Director, Trademark Examining Operation, U.S. Patent and Trademark Office, Washington, D.C. 20231

The two new members are:

Samih N. Zaharna, Director, Patent Examining Group 160, U.S. Patent and Trademark Office, Washington, D.C. 20231

Samuel S. Matthews, Director, Patent Examining Group 250, U.S. Patent and Trademark Office, Washington, D.C. 20231

Each new member is appointed to serve for a term of three years to expire on January 31, 1986.

The following member's term will expire on January 31, 1983: James O. Thomas, Jr., Member, Director, Patent Examining Group 140, U.S. Patent and Trademark Office, Washington, D.C. 20231.

The membership on the PRB on February 1, 1983, will be as follows:

Donald J. Quigg, Chairman, Deputy Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Rene D. Tegtmeyer, Member, Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Margaret M. Laurence, Member, Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Bradford R. Huther, Member, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Samuel S. Matthews, Member, Director, Examining Group 250, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1986.

Richard J. Wieland, (Outside) Member, Assistant General Counsel for Litigation, HQ National Aeronautics and Space Administration, Washington, D.C. 20546. Term—expires July 12, 1984.

Samih N. Zaharna, Member, Director, Patent Examining Group 160, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1986.

Persons desiring any further information about the membership of the PRB may contact Mr. Aaron W. Deitch, Personnel Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. Telephone (703) 557-2662.

Dated: January 21, 1983.

Donald J. Quigg,

Deputy Commissioner of Patents and Trademarks.

[FR Doc. 83-2080 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF EDUCATION

Grants to State Educational Agencies To Meet the Special Educational Needs of Migratory Children

AGENCY: Department of Education.

ACTION: Application Notice for Fiscal Year 1983 (School Year 1983-84).

Applications are invited for new grants under the Migrant Education Basic State Formula Grant Program to establish and improve State programs and local projects designed to meet the special educational needs of migratory

children of migratory agricultural workers and migratory fishers.

The authority for this program is contained in Section 554(a) of Chapter 1, ECIA (Pub. L. 97-35).

(20 U.S.C. 3803)

The only eligible applicants are State educational agencies (SEAs).

The purpose of this program is to provide financial assistance to SEAs to establish or improve programs designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers.

Closing date for transmittal of applications: An application must be mailed or hand-delivered by April 29, 1983, unless in response to a specific request, the U.S. Department of Education extends this closing date for a particular SEA.

The U.S. Department of Education may grant an extension if the applicant SEA can show that the April 29 closing date creates difficulties for that SEA because it has already planned its application development and submission according to a different schedule. If an applicant SEA needs an extension of the April 29 closing date, it should request one as soon as possible, and in any event, prior to April 15, 1983.

Applications delivered by mail: An application sent by mail must be addressed to Mr. Vidal A. Rivera, Jr., Acting Director, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, Room 1100, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant SEA must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or, (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail. Each late applicant will be notified that its application will not be considered—unless that SEA has been granted an extension to the closing date.

Applications delivered by hand: An application that is hand-delivered must be taken to the Migrant Education Programs office, Office of Elementary and Secondary Education, U.S. Department of Education, Room 1100, Donohoe Building, 6th and D Streets, SW., Washington, D.C.

The Migrant Education Programs office will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern Standard Time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The Secretary awards grants under this program to SEAs to establish or improve State programs and local projects designed to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishers. An applicant SEA may submit a State Plan covering a period of one to three years.

The Secretary published proposed regulations for this program on December 3, 1982, at 47 FR 54718.

Available funds: The Second Continuing Resolution (Pub. L. 97-377) for fiscal year 1983 includes $248.679 million available for Migrant Education Programs for FY 1983 (school year 1983-84) grants. It is estimated these funds will support 51 State programs. This estimate, however, does not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and instructions will be mailed to all eligible SEAs. Additional forms and instructions may be obtained by writing to Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, Room 1100, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An application must be prepared and submitted in accordance with the proposed regulations, instructions, and forms included in the program information package. The program information package is intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary also urges that an applicant not submit information that is not requested.

Special procedures: The application is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires an applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide—

(1) The comments of each clearinghouse that commented on its application; or

(2) A statement that the applicant used the procedures of OMB Circular A-95 but did not receive any clearinghouse comments.

Applicable regulations: The regulations that apply to this program include the following:

(1) The proposed Migrant Education Basic State Formula Grant Program Regulations (34 CFR Part 201), which were published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 3, 1982, at 47 FR 54718. An applicant SEA should base its application on the NPRM. If major changes are made in the final regulations, the Secretary may extend the closing date to permit applicant SEAs to amend their applications.

(b) The proposed General Provisions Regulations (34 CFR Part 204) which were published concurrently with the proposed Migrant Education Basic State Formula Grant Program Regulations at 47 FR 54728.

Further information: For further information, contact Mr. Dustin Wilson, Director, Division of Program Operations, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, Room 1100, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245-9231.

(20 U.S.C. 3803)

Dated: January 21, 1983.

(Catalog of Federal Domestic Assistance No. 84.011; Migrant Education/Basic State Formula Grant Program)

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-2110 Filed 1-25-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER83-237-000]

Arizona Public Service Co., Filing

January 20, 1983.

Take notice that on January 10, 1983, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Interruptible Transmission Service Agreement between Arizona Electric Power Cooperative, Inc. (AEPCO) and Arizona executed December 15, 1982.

Arizona requests that the Agreement become effective 60 days from the date of filing.

A copy of this filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2042 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-14-000]

The Bibb Co.; Amendment of Application for Adjustment Seeking Relief From Incremental Pricing Provisions

January 20, 1983.

On March 9, 1982, the Bibb Company (Bibb) filed with the Federal Energy Regulatory Commission (Commission), an application for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1982), and § 385.1104 (formerly § 1.41) of the Commission's Rules of Practice and Procedure (18 CFR 385.1104). Notice of Bibb's application was issued on March 25, 1982 (47 FR 13551, March 31, 1982). Bibb sought interim and permanent relief from the Commission's incremental pricing regulations and also requested a refund of all prior incremental pricing surcharge payments. The Director, Office of Pipeline and Producer Regulation (Director), issued an Order Granting in Part and Denying in Part Request for Interim Relief from Incremental Pricing Provisions on April 16, 1982 (19 FERC ¶ 62,050). By letter dated October 25, 1982, Bibb amended its request for relief from incremental pricing provisions and also requested interim relief.

Bibb is a textile manufacturing company which operates ten plants. However, Bibb sought relief for only three plants: the Coliseum Plant at Macon, Georgia, the Columbus Plant at Columbus, Georgia, and the Camellia Plant near Forsyth, Georgia. Bibb alleged that, because of the incremental pricing surcharges assessed to these plants, it has suffered special hardship, inequity, and unfair distribution of burdens, and will continue to suffer, if relief is not granted. By order of the Director issued April 8, 1982, interim relief was granted only to the Coliseum Plant, and was denied to the Camellia and Columbus Plants.

In its amended application, Bibb requests interim and permanent adjustment relief from § 282.203(b) of the Commission's regulations for the Columbus Plant. Section 282.203(b) provides for exemption from the Commission's incremental pricing program under Title II of the NGPA for *inter alia,* industrial boiler fuel facilities which have reduced their average per day use of natural gas below a 300 Mcf per day level for each of the twelve consecutive months preceding the filing of an exemption affidavit.

By letter dated October 25, 1982, Bibb informed the Commission that its Columbus Plant had been exempt from incremental pricing surcharges as a small industrial boiler facility during the period January 1982 through July 1982. Bibb's exemption was forfeited when the plant's boiler fuel usage exceeded an average of 300 Mcf per day during August 1982. Bibb requests that the Commission excuse its excess use in August 1982, and continue to exempt the Columbus Plant from incremental surcharges since its use has not exceeded an average of 300 Mcf per day in any month since August 1982, and it does not expect to exceed that limitation in the future. Bibb stated that it exceeded the 300 Mcf per day limitation because its coal-fired boiler was being rebuilt in August 1982, and there were delays in shipment of necessary parts to Bibb which resulted in longer down-time than anticipated.

Rules 1101-1117 of the Commission's Rules of Practice and Procedure (18 CFR 385.1101-.1117) implement section 502(c) of the NGPA, and allow the Director to grant adjustments of rules and orders issued under the NGPA if the applicant can demonstrate that it suffers special hardship, inequity, or an unfair distribution of burdens due to the application of these rules and orders. Bibb alleges that due to its forfeiture of the exemption from incremental pricing it has suffered special hardship, inequity and unfair distribution of burdens, as is required for relief under NGPA section 502(c), and will continue to suffer same if it is not granted the requested relief. The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101-1117.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (18 CFR 385.214). All petitions to intervene must be filed within ten days after publication of this notice in the **Federal Register.**

Kenneth F. PLumb,

Secretary.

[FR Doc. 83-2043 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-248-000]

Central Illinois Public Service Co.; Filing

January 20, 1983.

Take notice that on January 13, 1983, Central Illinois Public Service Company (CIPS) tendered for filing changes in Rate Schedule W-5 (long-term firm wheeling service). The Company's proposal incorporates a two-step rate change. The first step would place into effect a rate of $1.93 per Kw of a customer's maximum monthly demand. The second step would effectuate a $2.02 per Kw rate. The tendered changes also incorporate various rate design revisions.

CIPS states that the tendered changes to Rate Schedule W-5 resulted from the Commission's December 15, 1982 order in Docket No. ER81-736-000.

CIPS requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2044 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-247-000]

Consumers Power Co.; Filing

January 20, 1983.

Take notice that Consumers Power Company (Consumers) on January 12, 1983, tendered for filing the Supplemental Agreement No. 1 to the Pere Marquette Facilities Agreement between Consumers and Wolverine Electric Cooperative, Inc.

The Pere Marquette Interconnection Facilities Agreement is one of eight facilities agreements related to a coordinated operating agreement between Consumers, on the one hand, and Wolverine Electric Cooperative, Inc., Northern Michigan Electric Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan and the City of Zeeland, Michigan, on the other hand.

Consumers requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Wolverine Electric Cooperative, Inc., Northern Michigan Electric Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan, the City of Zeeland, Michigan and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). all such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2045 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-236-000]

Detroit Edison Co.; Filing

January 20, 1983.

Take notice that Detroit Edison Company (Detroit) on January 10, 1983, tendered for filing the following two documents:

1. Limited Term Transmission Service Agreement between Detroit and the Village of Clinton, Michigan, and

2. Interconnection Agreement Michigan South Central Power Agency/ The Detroit Edison Company.

Detroit states that the proposed rate for transmission service to the Village of Clinton is 2.0 mills per kilowatt per hour plus the cost of energy plus 10% thereof not to exceed one-half mill per kilowatthour. This proposed rate is in conformance with the Commission's Order No. 84.

Detroit further states that the proposed rates for the agreement with the Michigan South Central Power Agency are also in compliance with rates filed previously with and accepted for filing by the Commission. The basic rate for Short Term Power is 85¢ per kilowatt per week plus energy at out-of-pocket costs plus 10% thereof.

Detroit requests an effective date of March 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2046 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-239-000]

Duke Power Co., Filing

January 20, 1983.

Take notice that Duke Power Company (Duke) tendered for filing on January 10, 1983, a revised Service Schedule G Bulk Power Wheeling to the Company's Interconnection Agreement with Carolina Power and Light Company. Duke states that this Agreement is on file with the Commission and has been designated Duke Rate Schedule FERC No. 10.

Duke further states that revised Service Schedule G–1982 Bulk Power Wheeling amends the prior Service Schedule–1979 by adding a provision for Carolina Power & Light Company's use of any available non-firm transmission capacity over and above the firm transmission capacity reserved for Carolina Power & Light Company under the schedule. In addition, Duke states that Service Schedule G–1982 contains an increase in the firm transmission rate. Based on a 12–month period ending June 30, 1982, Duke estimates that the proposed change in the firm transmission rate will increase annual revenues from Carolina Power & Light by approximately $443,368.

Duke requests an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were mailed to the customer and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2047 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-11-000]

Interstate Power Co.; Application

January 20, 1983.

Take notice that on January 17, 1983, Interstate Power Company (Applicant) of Dubuque, Iowa, filed an Application pursuant to Section 203 of the Federal Power Act seeking authority to sell to the Blackhawk Area Credit Union certain office facilities and real estate located in Carroll County, State of Illinois.

The facilities proposed to be sold by Applicant for a base purchase price of $50,000, consist of property and real estate located in Savanna, Illinois.

Applicant represents that after the sale there will be no change in the use of the facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2046 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-238-000]

Louisville Gas and Electric Co.; Filing

January 20, 1983.

Take notice that on January 10, 1983, Louisville Gas and Electric Company (Louisville) tendered for filing the proposed cancellation of its Supplement No. 5 (Service Schedule G) to Rate Schedule FPC No. 21.

Louisville states that Supplement No. 5 (Service Schedule G) to Rate Schedule FPC No. 21 provided for an additional temporary 138 Kv interconnection point between Louisville and Public Service Company of Indiana, Inc. (Service Company) under the Interconnection Agreement between the companies, dated February 1, 1967. This temporary interconnection was necessitated to allow Service Company to most economically feed certain sections of its system during a period of construction and reconstruction thereon. The period of construction and reconstruction has terminated and the interconnection is no longer necessary.

Louisville requests an effective date of December 9, 1982.

Copies of this filing were served upon Public Service Company of Indiana, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2049 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-235-000]

Minnesota Power & Light Co.; Filing

January 20, 1983.

Take notice that Minnesota Power & Light Company (Minnesota) on January 10, 1983, tendered for filing executed contract supplements relating to rates for electric utility service to the following municipal customers: a) The City of Ely, Minnesota; and b) Stuntz Cooperative Light and Power Association.

Minnesota states that under the terms and conditions of the executed supplements, Minnesota will guarantee certain limitations on rate increases during the period 1983–1989.

Minnesota requests waiver of the Commission's regulations to the extent necessary to permit the executed agreements to become effective as specified in the various executed supplements.

Copies of the executed supplements have been served upon The City of Ely, Stuntz Cooperative Light and Power Association and the Minnesota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2050 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-249-000]

Oklahoma Gas and Electric Co.; Filing

January 20, 1983.

Take notice that on January 13, 1983, Oklahoma Gas and Electric Company (OG&E) tendered for filing an Agreement for the sale of 150 MW of power and energy to Gulf States Utilities Company (GSU) for the year 1983. OG&E states the rate is the same as that contained in Docket No. ER82-309 which covered a similar sale during year 1982.

OG&E requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2051 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-244-000]

Southern California Edison Co., Filing

January 20, 1983.

Take notice that on January 10, 1983, Southern California Edison Company (Edison) tendered for a change of rates for monthly carrying charges under the provisions of Paragraph 12.5 of the Power Sale Agreement Among Edison, Arizona Public Service Company, Nevada Power Company, Tucson Gas and Electric Company, and Arizona Pooling Association, Inc. (APPA) (Rate Schedule FERC No. 92).

Edison requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2052 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-9-000]

Wisconsin Public Service Corp.; Application

January 20, 1983.

Take notice that Wisconsin Public Service Corporation (Applicant) on January 6, 1983, tendered for filing an application pursuant to Section 203 of the Federal Power Act for authority to sell certain facilities to the City of Manitowoc, Wisconsin.

Applicant indicates that the purchase price of the facilities being sold which are subject to the jurisdiction of the FERC is $430,101.28, subject to adjustment as provided in paragraph 2 of the Purchase Agreement.

The facilities subject to the jurisdiction of FERC which are to be sold consist of plant and land comprising part of Applicant's Manrap and Manitowoc Substations and Transmission Lines K-11 and J-62.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2053 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF83-113-000]

Energy Cogen Corp.—Alamitos; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suit 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Alamitos Generating Station in Long Beach, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 2,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2055 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-114-000]

Energy Cogen Corp.—Encina; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Encina Power Plant in Carlsbad, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 2,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within

one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2056 Filed 1-25-83; 8:45 am]

BILLING CODE 6517-01-M

[Docket No. QF83-108-000]

Energy Cogen Corp.—Etiwanda; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp. (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Etiwanda Electric Generating Station in Etiwanda, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing valves before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 2,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one miles of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-2054 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-116-000]

Energy Cogen Corp.—Moss Landing; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Moss Landing Power Plant in Moss Landing, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 6,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. PLumb,

Secretary.

[FR Doc. 83-2058 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-115-000]

Energy Cogen Corp.—South Bay; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the South Bay Power Plant in Chula Vista, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 1,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2057 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-3-001]

Madison Gas & Electric Co.; Application for Exemption

January 21, 1983.

Take notice that Madison Gas & Electric Company (MGE), filed an application on December 29, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. MGE proposes alternate compliance in the form of the application it intends to file with the Public Service Commission of Wisconsin for an electric rate increase on June 1, 1983.

In its application for exemption MGE states, in part, that it should not be required to file the specified data for the following reasons:

> MGE believes that the information required by Subparts B, C, D, and E of Part 290 or substantially similar information will be filed by it in the June 1, 1983, rate increase application. MGE respectfully submits that this filing may be considered an alternative method of fulfilling the filing requirements of Subparts B, C, D, and E of the regulation.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on:

Donald J. Helfrecht, President, Madison Gas & Electric Company, P.O. Box 1231, Madison, Wisconsin 53701

and

David C. Mebane, General Counsel, Madison Gas & Electric Company, P.O. Box 1231, Madison, Wisconsin 53701

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2059 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-1-000]

Natural Gas Transmission Company of Ohio; Petition for Adjustment

January 21, 1983.

On October 18, 1982, the Natural Gas Transmission Company of Ohio filed with the Federal Energy Regulatory Commission a petition for an adjustment under Sections 502(c) and 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA), wherein the Natural Gas Transmission Company of Ohio has sought an adjustment from Subpart C of Part 284 of the Commission's Regulations in order to allow the Natural Gas Transmission Company of Ohio to substitute its existing 48.8 per MCF rate contained in one of its then effective intrastate transportation rate schedules on file with the Public Utilities Commission of Ohio as the rate for computing transportation services being performed by the Natural Gas Transmission Company of Ohio on behalf of Columbia Gas Transmission Corporation, pursuant to Section 311(a)(2) of the NGPA.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. (18 CFR Part 385, Subpart K).

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within fifteen (15) days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2060 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE83-1-000]

Nevada Power Co.; Application for Exemption

January 21, 1983.

Take notice that Nevada Power Company (NPC) filed an application on December 13, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in § 290.404(g)(5) as it applies to NPC's General Service (GS) class of service.

In its application for exemption NPC states, in part, that it should not be required to file the specified data. NPC states that data for the GS class of service was filed June 1982 and was collected on a sample metered basis. The data indicated that 20% to 30% of the sampled customers consumed off peak energy only. As a consequences, GS class customer consumption and demand at the time of system peak load was minimal, making "improved quality of accuracy over the previous filing" [Section 290.404(g)(5)] attainable only by a sizeable increase in the GS class of service sample size. The accompanying expense, in view of the relatively small number of GS class customers (accounting for less than 2.5% of total retail sales), is deemed costly and wasteful.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility published a summary of the application in newspapers of

general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Mr. Connell Marsden, Manager, Rates & Regulations, Nevada Power Company, 6226 West Sahara Avenue, P.O. Box 230, Las Vegas, Nevada 89151.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2001 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-34-002]

Puget Sound Power & Light Co.; Application for Partial Exemption

January 21, 1983.

Take notice that Puget Sound Power & Light Company (Puget) filed an application on January 3, 1983 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in § 290.202(a) as it applies to estimated hourly average energy costs, § 290.303(a) in its entirety, and §§ 290.303(g), 290.303(h), 290.501(a) and 290.502(a) as they apply to average and marginal hourly energy costs. As an alternative, Puget proposes to submit *monthly* values in place of estimated *hourly* average energy costs and marginal *hourly* energy costs.

In its application for exemption Puget states, in part, that it should not be required to file the specified data for the following reasons:

> Eighty percent of the applicant's annual load requirements are met with hydro-electric energy, rendering an analysis of hourly average energy cost meaningless.
>
> Previous marginal pricing analysis by the applicant found monthly marginal energy data, as opposed to hourly marginal energy data, would achieve the intent and purpose of Section 133 of PURPA.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Mr. R. H. Swartzell, Vice President, Rates, Puget Sound Power and Light Company, Puget Power Building, Bellevue, Washington 98009.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2002 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Revised Proposed Long-Term Marketing Policy—Kerr-Philpott System of Projects

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Extension of time within which to consult with and/or submit written comments to SEPA on the revised proposed long-term marketing policy for Kerr-Philpott System of Projects.

SUMMARY: In its Notice published in the **Federal Register** of June 25, 1982, 47 FR 27600, SEPA established January 17, 1983, as the deadline for consultations and receipt of written comments on the revised proposed long-term marketing policy for its Kerr-Philpott System. This Notice extends the deadline from January 17, 1983, until April 18, 1983.

DATE: Written comments on the subject revised proposed policy may be submitted through April 18, 1983. Consultations may be held through the same date.

FOR FURTHER INFORMATION CONTACT: Mr. Harry C. Geisinger, Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, 404-283-3261.

SUPPLEMENTARY INFORMATION: SEPA received near the deadline for receipt of written comments and consultations, a number of requests for consultations which it could not properly respond to during the time remaining. There may also be other interested parties who may request consultations. Furthermore, SEPA desires to receive such additional written comments after the consultations as may be forthcoming to assist in development of the policy including solution of major problems indicated in the June 25, 1982, Notice.

Issued at Elberton, Georgia, January 14, 1983.

Curtis H. Bell,

Acting Administrator.

[FR Doc. 83-2130 Filed 1-25-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ARP-FRL-2245-6]

Federal Radiation Protection Guidance for Public Exposure To Radiofrequency Radiation

Correction

In FR Doc. 82-34831 beginning on page 57338 in the issue of Thursday, December 23, 1982, make the following corrections:

1. On page 57339, first column, under **FOR FURTHER INFORMATION CONTACT,** "401 M Street, SE" should have read "401 M Street, SW".

2. On the same page, third column, in the first paragraph under **Biological Effects of Radiofrequency Radiation,** in the 15th line, "following the establishing" should have read "following in establishing".

3. On page 57340, first column, in the second paragraph under **Existing Standards,** third line, "10m2/cm²" should have read "10mW/cm²".

4 In the same column, in footnote 1 at the bottom of the page, references to "ASNI" should have been "ANSI".

BILLING CODE 1505-01-M

[W-2-FRL 2290-6]

Region II: Ground Water System of the Schenectady Aquifer; Request for EPA Determination Regarding Aquifers

A petition has been submitted by Frank J. Duci, Mayor, City of Schenectady, New York pursuant to Section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, requesting the Administrator of the Environmental Protection Agency to make a determination that the Schenectady Aquifer (Great Flats Aquifer) is the sole or principal drinking water source for

approximately 157,000 residents of Schenectady and Saratoga Counties which, if contaminated, would create a significant hazard to public health.

FOR FURTHER INFORMATION CONTACT: Walter E. Andrews 212–264–1800.

SUPPLEMENTARY INFORMATION: This petition is reprinted in full below:

TO: Anne Gorsuch, Administrator United States Environmental Protection Agency

In the Matter of the Petition of the City of Schenectady for Designation of the Schenectady Aquifer as a Sole or Principal Source Aquifer under section 1424e of the Safe Drinking Water Act.

Petition

1. This petition for the designation of the Schenectady Aquifer as a Sole or Principal Source Aquifer is submitted by: Frank J. Duci, Mayor, City of Schenectady, City Hall, Schenectady, New York, (518) 382–5000.

2. The City of Schenectady as the owner and supplier of water to some 157,000 people, taken from the Schenectady Aquifer has an interest in maintaining and protecting the quality of the groundwater in the aquifer and is thus interested in the Administrator's determination.

3. The Schenectady Aquifer currently is the sole source of potable drinking water of approximately 157,000 residents of Schenectady and Saratoga Counties. Contamination of this aquifer by synthetic organic chemicals, gasoline or similar toxic substances would create a significant hazard to the health and welfare of the people using water from the aquifer. At the present time, water taken from the Schenectady Aquifer meets or exceeds federal and state drinking water standards.

4.(a) The water supply for the City of Schenectady and the communities to which it supplies, is derived from wells in an exceptionally permeable coarse sand and gravel aquifer which underlies the floodplain of the Mohawk River. The Schenectady Aquifer consists of a thick deposit of sand and gravel up to 200 feet thick and two miles wide, and underlain by glacial till. The aquifer is located in the Mohawk River Valley in upstate New York. Please see accompanying maps for a more specific location.

(b) The Schenectady Aquifer supplies water to the following municipalities: City of Schenectady, Rotterdam, Niskayuna, Scotia, Glenville, Charlton, Burnt Hills, Ballston Lake, and Rexford.

(c) Population served is estimated to be approximately 157,000 persons.

(d) There are no sufficient alternative sources of water which are of the same quality as that currently taken from the Schenectady Aquifer. The only potential alternative source of drinking water is the Mohawk River. However, due to the poor quality of the water, this would entail significant capital expenditures to build treatment and distribution facilities.

(e) Defining the exact boundaries of the area of influence of the Schenectady well fields is difficult because of the complex nature of the aquifer and the number of influences. Because the Schenectady Aquifer extends over many square miles of the Mohawk Valley, the area immediately surrounding the Schenectady well field is not the only area through which potential contaminants can enter the water system. When one considers the water system, a much larger area, the "Extended Areas of Influence" must be included. Even if the critical area, referred to as Zone I–G, the Cone of Depression around the well, is protected, contaminants from elsewhere could travel laterally to the protected area. Therefore, we have included Zone II–G, the Aquifer Recharge Area, and Zone III–G, the Watershed Area Tributary to the Recharge Area. These areas are shown on Map 2, and represent the geographic components of the water system—the areas of influence.

Zone I–G, the well head protection area is the area within a circle which has a radius of 200 feet from the well and is extended to include the well's "cone of depression". At the Schenectady Aquifer, water may enter from the river or from any point on land over the aquifer. Along with this water, any soluble or liquid material may also be drawn into the aquifer and travel through it to the well field. As municipalities, such as the City of Schenectady, use their wells, more water is drawn into the aquifer. Near the wells, a zone hydrologically known as a "cone of depression" develops. (See Map 2) As water is removed by pumping, groundwater slowly flows into the cone of depression and is pumped out. Pure water and any contaminant entering the ground near the cone of depression may travel to the well and enter the water supply. This zone is therefore the most critical because any contaminant entering this zone may be drawn into the aquifer.

The aquifer recharge area is the land area where precipitation percolates directly through the ground to the aquifer. This area is shown as Zone II–G on Map 2. The aquifer's ability to filter out many types of organic and chemical impurities as the water percolates down and travels underground is an important asset not found in surface reservior systems. Since the aquifer is recharged from both the Mohawk River and percolation through the ground surface, the absorption of toxic substances is also possible. In fact, serious groundwater contamination has occurred in the past and has resulted in the closing of public wells in many parts of New York State.

Zone III–G is the watershed area tributary to the recharge zone. Contaminants may be carried with the water from this zone that replenishes the recharge area. This zone was mapped by geographically locating the watershed based on existing contours that may contribute runoff to the recharge area. The geographic extent of this area having influence on the water system extends about four miles upstream. However, the watershed beyond this (Zone III–G–2) contributes runoff directly to the Mohawk River which may travel downstream and enter the aquifer system. This is a secondary zone and the potential for contamination would depend on the type and amount of the contaminant.

Please see the accompanying report "Water Supply and Aquifer Protection Study" and maps for further details.

(f) The primary source of recharge to the Schenectady Aquifer is the Mohawk River and is shown as Area II–G (Aquifer Recharge Area) on the enclosed map entitled "City Water Supply Geographic Components—Areas of Influence" (Sheet No. 2).

(g) The Schenectady Aquifer, like any aquifer, is vulnerable to contamination from many various and diverse sources. Among the potential sources of contamination to the Schenectady Aquifer are:

1. Onsite disposal systems.
2. Landfills and dumps.
3. Stormwater runoff recharge basins.
4. Snow disposal—stockpiling.
5. Accidental spills on transportation corridors or by vessels on the Mohawk River.
6. Wastewater lagoons.
7. Pesticide and fertilizer usage.
8. Stockpiling of deicing salt and coal.
9. Use of deicing salts on roadways.
10. Cemeteries.
11. Underground storage tanks or pipelines.
12. Dense commercial, industrial or residential development.

(h) Schenectady Aquifer.

Water supplies in area [1]	Population served
(Usage estimated at 34 million gallons per day)	
Schenectady City (Rotterdam WD #1, Niskayuna WE #1, 2, 3, 4, 6, 7, 8)	100,000
Rotterdam WD #5 (Rotterdam WD #2)	24,717
Rotterdam WD #4 (Pur. from Rotterdam WD #5)	1,750
Rotterdam WD #3	952
Scotia (V)	7,600
Glenville WD #2 (Pur. from Scotia (V))	1,750
Glenville WD #3 (Pur. from Scotia (V))	1,750
Glenville WD #11 (Glenville WD #1, 4, 5, 6, 7, 9, 10)	12,097
Charlton WD (Pur. from Glenville WD #11)	2,000
Burnt Hills—Ballston Lake WD (Pur. from Glenville WD #11)	3,500
Rexford WD (Pur. from Glenville WD #11)	800
Total [2]	156,916

[1] These figures are taken from a study entitled "Report on Ground Water Dependence in New York State" (New York State Department of Health, Division of Environmental Health, Bureau of Public Water Supply, 1981). A copy is enclosed with this petition.

[2] Mobile home parks, apartments and condominiums, etc., with their own well supply are not included in the population figures. Therefore, the actual population using the aquifer is greater than the figures shown.

5. The following maps showing the required information has been included with this petition.

(a) General Aquifer Area (Sheet 1).

(b) City Water Supply Geographic Components (Sheet 2).

(c) Land Use Within Aquifer Area (Sheet 3A).

(d) Land Use—Potentially Harmful Areas, Within Area of Influence (Sheet 3B).

(e) Zoning Within Aquifer Area (Sheet 4).

(f) Critical Area Future Expansion (Sheet 5).

6. Also included for your consideration are the following:

(a) *Water Supply and Aquifer Protection Study* (Prepared by the LA Partnership, Saratoga Springs, New York, for Richard J. Lilley, Jr., Superintendent of Water, City of Schenectady, 1982).

(b) *Report on Ground Water Dependence in New York State* (New York State Department of Health, 1981).

I conclude that the Schenectady Aquifer is the sole or principal source of drinking water in the area, and contamination of this aquifer would create significant hazards to the public health. I, therefore, respectfully request that the Administrator and the Regional Administrator of the U.S. Environmental Protection Agency determine that the Schenectady Aquifer be designated as the sole or principal source of drinking water for the area and that this determination be printed in the **Federal Register** as required by Section 1424(e) of the Safe Drinking Water Act.

Dated: ———

Respectfully submitted,

Frank J. Duci,

Petitioner, Mayor, City of Schenectady.

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency is developing a full factual record, and solicits comments, data, and references to additional sources of information relevant to the determination required by Section 1424(e). In particular, information is sought concerning the hydrogeology of the Schenectady Aquifer, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, the significance of current or anticipated projects reveiving federal financial assistance that may result in contaimination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this Notice should be submitted in writing to Jacqueline E. Schafer, Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, N.Y. 10278, attention: Schenectady Aquifer; within 60 days of this Notice. Information concerning the Schenectady Aquifer, including the original petition and attachments, will be available for inspection at the above address.

In addition to considering public comments sent to EPA, the Agency will hold a public hearing on March 3, 1983, 1:00 pm–4:00 pm and 7:00 pm–9:00 pm at the Procters Theater, 432 State Street, Schenectady, N.Y.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. Damian Duda, Water Supply Branch, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10278, (212) 264–1800. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83-1979 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL 2290-4]

Science Advisory Board, Environmental Engineering Committee, Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Environmental Engineering Committee (EEC) of the Science Advisory Board will be held in the Tenth Floor Conference Room, Cockrell Hall, University of Texas, 26th and San Jacinto Streets, Austin, Texas on February 10–11, 1983. The meeting will begin at 9:00 a.m. and last until approximately 5:00 p.m. each day.

The purpose of the meeting is twofold. First, the Committee will continue review of technical suport data pertaining to the proposed EPA effluent guidelines for the pesticides industry, developed under the Clean Water Act. The major issue under review will be the techniques and assumptions used by EPA in determining the types and levels of technology used to establish treatment limits, particularly for those pesticides for which an adequate data base does not exist. Second, the Committee will continue its review of proposed revisions to the Agency's definitions of secondary treatment.

The major issues are:

a. The technical implications of using a BOD test that inhibits nitrification in lieu of the present uninhibited BOD test.

b. The scientific and technical basis for seasonal (cold-weather) adjustments to trickling filter effluent limitations.

c. Whether newly-designed trickling filters can be expected to meet current effluent limits.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Acting Director, Science Advisory Board, at (202) 382–4126.

Terry F. Yosie,

Acting Director, Science Advisory Board.

January 19, 1983.

[FR Doc. 83-2106 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30224; PH FRL 2291-1]

Albany International; Application To Register a pesticide product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by February 25, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-30224] and the file symbol, should be submitted to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, CM#2, Rm. 207, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA received an application as follows to register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 2(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Application Received

File Symbol: 36638-RR.

Applicant: Albany International Corp., 110 A Street, Needham Heights, MA 02194.

Product name: Nomate-Blockaide™. Insecticide.

Active ingredients: Cyclic dexadiene 3.1% Cyclic decene 3.1%. Cyclic pentadecatriene 3.1%. Decatriene 3.1%.

Proposed classification/Use: General. For outdoor boll weevil use on cotton.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered

before a final decision is made; comments received after the time specified will be considered only to the extent posssible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended).

Dated: January 13, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-2105 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59111A; TSH-FRL 2290-8]

Toxic Substances; Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-14 and TM-83-15, two 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: January 19, 1983.

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-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 83-14

Date of Receipt: December 6, 1982.

Notice of Receipt: December 17, 1982 (47 FR 56550).

Applicant: Confidential.

Chemical: Chlorinated oleated hydrocarbon polymer (Generic).

Use: Confidential.

Import Volume: Confidential.

Number of Customers: 1.

Worker Exposure: Potential exposure will be by the dermal and inhalation routes. At the manufacturing site, a maximum of 4 workers will be potentially exposed for 2 hours/day for no more than 4 days during transfer operations. During use a maximum of 2 workers will be potentially exposed again during transfer operations.

Test Marketing Period: 90 days.

Commencing on: January 19, 1983.

Risk Assessment: Based on the type of polymer, molecular weight, and that the test market substance is not designed to be water soluble, no significant health or environmental concerns were identified.

Public Comments: None.

TME 83-15

Date of Receipt: December 9, 1982.

Notice of Receipt: December 17, 1982 (47 FR 56550).

Applicant: Confidential.

Chemical: (substituted) anthracenylimino-(substituted) carbomonocyclic acid alkylamine salt.

Use: Confidential.

Import Volume: Confidential.

Number of Customers: 1.

Exposure Information: The substance will be imported. During use in the customer's industrial setting a maximum of 5 workers will be potentially exposed for 2 hours/day for 2 days. Potential exposure is by the dermal route. Consumers will not be exposed to the new substance.

Test Marketing Period: 4 months.

Commencing on: January 19, 1983.

Risk Assessment: The Agency identified no significant health or environmental concerns for the test market substance. The substance is expected to be poorly absorbed. Acute toxicity is low based on submitted data, and no chronic concerns were identified. If released, the substance is expected to have low bioavailability based on lack of solubility, and the substance is expected to sorb strongly to soils and sediments. In addition, release to the environment will be low.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: January 19, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-2104 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.6 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-4080.

Title: North Carolina/Harrington Lease.

Parties: North Carolina State Ports Authority (Port)/Harrington and Company, Inc. (Harrington)

Synopsis: Agreement No. T-4080, provides for (1) the lease of approximately six (6) acres at the Port of Wilmington for use by Harrington in its operation as steamship agent, and (2) preferential use by Harrington of Berths 6, 7 and 8 two days per week. As compensation, Harrington will pay Port a graduated annual rental of $48,000 to $84,000 over the five-year term of the lease, as well as wharfage charges on a guaranteed minimum of 25,000 tons of cargo per contract year. When and if approved by the Commission, this agreement will supersede and cancel Agreement No. T-3812, approved July 11, 1979.

Filing agent: Jerry A. Ganey, Director of Special Projects and Property Control, North Carolina State Ports Authority, P.O. Box 3248, Wilmington, North Carolina 28406.

Agreement No.: 8420-11.

Title: Israel/U.S. North Atlantic Ports Westbound Freight Conference.

Parties: Farrell Lines, Inc., Prudential Lines, Inc. and Zim Israel Navigation Co., Ltd.

Synopsis: Article 1.1 would be amended so that the conference membership could agree on compensation to be paid to brokers and forwarders.

Filing agent: Jeffrey F. Lawrence, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No.: 10464.

Title: Armada/GLTL East Africa Service.

Parties: Armada Great Lakes/East Africa Service, Ltd. and KG Great Lakes Transcaribbean Line GmbH & Co.

Synopsis: The joint venture is to operate a service between Canada/US Great Lakes and East/South Africa.

Filing agent: Thomas D. Wilcox, Suite 705, 1899 L Street, NW., Washington, D.C. 20036.

By Order of the Federal Maritime Commission.

Dated: January 21, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-2119 Filed 1-25-83; 8:45 am]

BILLING CODE 6730-01-M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on January 5, 1983, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No. LM-65-3.

Filing party: Mr. Peter C. Lambos, Lambos, Flynn, Nyland & Giardino, 29 Broadway, New York, New York 10006.

Summary: Agreement No. LM-65-3 is an amendment to the Job Security Program (JSP) Agreement between steamship carriers operating on the North Atlantic, South Atlantic and Gulf Coasts and the International Longshoremen's Association, AFL-CIO, covering the period October 1, 1980, through September 30, 1983.

The purpose of the amendment is to provide for the loan of $3,500,000 by JSP Agency, Inc. to the Hampton Roads Shipping Association.

The Federal Maritime Commission hereby gives notice that on December 14, 1982, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreements Nos. LM-80-1 and 81-1.

Filing party: R. Frederick Fishers, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreements Nos. LM-80 and LM-81 are collectively-bargained labor agreements between the Pacific Maritime Association and the International Longshoremen's and Warehousemen's Union. The subject agreements amend Agreements Nos. LM-80 and LM-81 by (1) suspending the implementation procedures of Agreement No. LM-81 and (2) adding certain container tonnage assessments to Agreement No. LM-80.

By Order of the Federal Maritime Commission.

Dated: January 21, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-2127 Filed 1-25-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American Fletcher Corp., et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notive 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.

Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation* (Fletcher), Indianapolis, Indiana (consumer finance and related insurance activities; Knox County, Indiana): To engage through its subsidiary, American Fletcher Financial Services, Inc. (Fletcher Financial), in making or acquiring loans or other extensions of credit for personal, family or household purposes, including loans secured by home equities, purchasing consumer installment sales finance contracts and acting as agent with respect to credit life and disability insurance on borrowing customers and insurance on property taken as collateral and limited solely to such loans and contracts of this subsidiary. Fletcher earlier secured approval to engage in insurance activities by Board Order of July 20, 1972. Fletcher Financial's insurance activities will be restricted according to the terms of clauses (A) and (B) of

section 601 of the Garn-St Germain Depository Institutions Act of 1982. These activities will be conducted from an office located in Vincennes, Indiana, serving Knox County, Indiana. Comments on this application must be received not later than February 14, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation,* Minneapolis, Minnesota (financing, servicing and leasing activities; continental United States, Alaska, Hawaii, Puerto Rico, any commonwealth, territory or possession of the United States, Canada or Mexico): To engage, through a *de novo* subsidiary, Lease Northwest, Inc., in making or acquiring loans and other extensions of credit such as would be acquired by a commercial finance company, including commercial loans secured by a borrower's inventory, accounts receivable or other assets; servicing such loans for others; and making leases of real and personal property in accordance with Regulation Y. These activities would be conducted from offices in Minneapolis, Minnesota; Omaha, Nebraska; Des Moines, Iowa; Fargo, North Dakota; and Billings, Montana, serving the continental United States, Alaska, Hawaii, Puerto Rico, any commonwealth, territory or possession of the United States, Canada or Mexico. Comments on this application must be received not later than February 15, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation,* Albuquerque, New Mexico (data processing and data transmission services; New Mexico and west Texas): To engage, through its *de novo* subsidiary, First City Data Corp., in providing data processing and data transmission services, data bases or facilities (including data processing and data transmission hardware, software, documentation and operating personnel) for the internal operations of First City Financial Corporation and its subsidiaries, and in providing to others data processing and transmission services, facilities or data bases. These activities would be conducted from offices in Albuquerque and Hobbs, New Mexico, serving New Mexico and west Texas. Comments on this application must be received not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2039 Filed 1-25-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Central Arkansas Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Central Arkansas Bancshares, Inc.,* Malvern, Arkansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Malvern, Malvern, Arkansas. Comments on this application must be received not later than February 18, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Ray Bancorporation, Inc.,* Ray, North Dakota; to become a bank holding company by acquiring 92.59 percent of the voting shares of Citizens State Bank of Ray, Ray, North Dakota. Comments on this application must be received not later than February 9, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bern Bancshares, Inc.,* Bern, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The State Bank of Bern, Bern, Kansas. Comments on this application must be received not later than February 18, 1983.

2. *Cedar Rapids State Company,* Cedar Rapids, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Cedar Rapids State Bank, Cedar Rapids, Nebraska. Comments on this application must be received not later than February 18, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Bank Holding Company,* Myrtle Point, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Security Bank of Coos County, Myrtle Point, Oregon. Comments on this application must be received not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2038 Filed 1-25-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 47 FR 13587, March 31, 1982), is amended to (1) consolidate the functions of the CDC Library (HCA55) with the Management Analysis and Services Office (HCA59), staff service offices within the Office of Administrative Management (HCA5), and (2) change the name of the Management Analysis and Services Office to Communications and Management Analysis Office (HCA59).

Section HC-B, Organization and Functions, is hereby amended as follows:

Under the heading *Office of Administrative Management (HCA5),* delete in their entirety the headings and statements for *CDC Library (HCA55)* and *Management Analysis and Services Office (HCA59),* and insert the following after the heading and statement for the *Office of Administrative Management (HCA5):*

Communications and Management Analysis Office (HCA59). (1) Plans, coordinates, and provides CDC-wide administrative, technical, management, and information services in the following areas: Committee management, communications, correspondence, delegations of authorities, distribution, forms, Freedom of Information Act Index, issuances, Library services, mail, organization and functions, personnel and information security, policy and procedures, printing and reproduction, Privacy Act, public inquiries, real property and space management, records, regulations, reports, studies and surveys,and information processing; (2) develops and implements policies and procedures in these areas; (3) maintains liaison with HHS, PHS, General Services Administration, the Government Printing Office, and other Government and private agencies.

Dated: January 19, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-2108 Filed 1-25-83; 8:45 am]

BILLING CODE 4160-18-M

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

Part A (Office of the Secretary), Chapter AM, Management and Budget Office, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services is amended. Specifically, Chapter AMS, Office of Management Services (42 FR 36310, July 14, 1977 as last amended by 45 FR 70133 of October 22, 1980) and Chapter AMF, Office of Facilities Engineering (44 FR 20304 of April 4, 1979) are amended; and Chapter AMM, Office of Management Analysis and Systems (42 FR 36312 of July 14, 1977 as last amended by 44 FR 6521 of February 1, 1979) is replaced. These changes reflect a restructuring of some of the administrative and management functions provided to the Department by the Office of the Assistant Secretary for Management and Budget. The changes are made to improve efficiency and effectiveness by consolidating several organizational sub-units within the Office of the Assistant Secretary for Management and Budget. The specific changes are:

1. Part A, Chapter AMS (Office of Management Services), the title of the Office is changed to the "Office of Facilities and Management Services"; and, Section AMS.00, Mission, and Section AMS.10, Organization, are deleted in their entirety and replaced with the following:

Section AMS.00 Mission

The mission of the Office of Facilities and Management Services is to: provide nationwide architectural-engineering management, direction, and services for both direct Federal and federally-assisted construction activities; manage facility engineering services for all HHS-owned or utilized real property throughout the country; administer the Federal surplus real property program; manage the HHS Safety and Occupational Health Program; provide advice, guidance, and management support with regard to personnel administration and grant operations to the Office of the Secretary components; and provide Department-wide leadership in the areas of administrative services and emergency coordination.

Section AMS.10 Organization

The Office of Facilities and Management Services, under a Director who reports to the Assistant Secretary for Management and Budget, consists of the following components:

Office of the Director
Office of Facilities Engineering
Division of OS Personnel
Division of Contract and Grant Operations
Division of Administrative Services
Division of Emergency Coordination

2. Part A, Chapter AMS (Office of Facilities and Management Services) Section 20. Functions is amended as follows:

(a) Delete subsection AMS.20.C in its entirety and reletter subsections D and E as C and D, respectively.

(b) Delete subsection AMS.20.F in its entirety and reletter subsection G as subsection E.

3. Part A, Chapter AMF (Office of Facilities Engineering) is relettered as Chapter AMS1 (Office of Facilities Engineering). Sections AMF.00, AMF.10, AMF.20 and AMF.30 are relettered AMS1.00, AMS1.10, AMS1.20 and AMS1.30, respectively.

4. Part A, Chapter AMS1 (Office of Facilities Engineering) is amended as follows:

(a) Section AMS1.10 Organization is amended to replace the first sentence with the following—"The Office of Facilities Engineering is headed by a Director who reports to the Director, Office of Facilities and Management Services, and who manages and supervises the activities of the following units:"

Section AMS1.10 Organization is amended by inserting below the title "Office of the Director" and above the title "Deputy Director for Technical Services" the title "Washington Facilities Division."

(b) Chapter AMS1, Section AMS1.20 Functions is amended by adding paragraph 7 to Subsection A, as follows:

7. Washington Facilities Division—plans and administers the HHS facilities management program in the Washington, D.C. area; provides engineering and architectural services in support of the maintenance and operations of all HHS facilities in the national capitol area; negotiates for, obtains, and allocates parking spaces in southwest Washington, D.C.; and implements and/or develops procedures, standards, and regulations for the occupational safety and health program within the Office of the Secretary.

(c) Chapter ASM1, Section ASM1.30 Delegations of Authority is deleted in its entirety.

5. Part A, Chapter AMM (Office of Management Analysis and Systems) is deleted in its entirety and replaced with the following:

AMM.00 Mission

A. Under the supervision of the Deputy Assistant Secretary for Management Analysis and Systems, the Office of Management Analysis and Systems advises the Secretary and the Assistant Secretary for Management and Budget on management issues which affect the attainment of the Department's goals and objectives.

B. The Office of Management Analysis and Systems: (1) Recommends management policies; (2) implements approved policies and assesses their effectiveness; (3) establishes management control mechanisms and administers the Department's management-by-objectives process; (4) administers the Departmental process designed to track and document efforts to reduce losses to fraud, abuse, and waste; (5) analyzes organizational structures and management procedures and recommends improvements; (6) applies management science and systems analysis techniques to the assessment of managerial issues; (7) guides and oversees the development of information systems; (8) implements the Department's policies on the collection, processing, and storage of information; (9) guides and oversees the Department's implementation of the requirements of the Paperwork Reduction Act of 1980 (Pub. L. 96-511); (10) guides and oversees the Department's compliance with environmental and historic preservation

statutes; and (11) guides and oversees the Department's printing management programs.

In carrying out its responsibilities, the Office is the Department's functional manager for guiding, monitoring, and evaluating the Department's procedures and operating practices in the eleven areas described above.

AMM.10 Organization

The Office of Management Analysis and Systems reports to the Assistant Secretary of Management and Budget. The Office consists of the following elements:

Immediate Office
Office of Computer and Information Systems
Office of Management Analysis
Office of Management Control
Office of Public and State Data Systems

AMM.20 Functions

A. Immediate Office

The Immediate Office of the Office of Management Analysis and Systems is responsible for directing, administering, and coordinating the activities of the Office Management Analysis and Systems.

B. Office of Computer and Information Systems

The Office of Computer and Information Systems is responsible for:

1. Developing and overseeing the policies and procedures by which the Department plans for, acquires, and manages its information systems:

2. Managing HHS computer information system activities in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511);

3. Managing the provision of automated information system services to components within the Office of the Secretary;

4. Representing the Department in dealing with Office of Management and Budget (OMB), General Services Administration (GSA), and other external entities regarding HSS information systems planning, budget, and management matters.

(a) Division of Management Information Systems Planning and Evaluation is responsible for:

(1) Establishing information systems policies which govern the development and operation of information systems throughout the Department;

(2) Evaluating the cost effectiveness of major information systems;

(3) Developing and establishing a Departmental planning process for relating information system requirements to HHS programmatic and administrative needs;

(4) Providing technical and management evaluations of the Department's long-range ADP and telecommunications financial plans;

(5) Establishing policies covering the use of information processing standards throughout the Department; and

(6) Establishing and maintaining the Department's inventory of information systems resources.

(b) The Division of Information Systems Security and Management is responsible for:

(1) Providing policy guidance, technical assistance, and oversight for the implementation of systems security processes and procedures for automated information systems and computer facilities throughout the Department;

(2) Developing short and long range plans for the management of the automated information systems security program;

(3) Conducting ADP security reviews and evaluations of the Department's automated information systems and computer facilities;

(4) Managing the development of the automated information systems serving the internal needs of the Office of Management Analysis and Systems; and,

(5) Providing technical advice, systems analysis, programming and operational support for designated Departmental automated systems.

(c) Division of Automatic Data Processing (ADP) and Telecommunications Resources is responsible for:

(1) Establishing HHS policies and procedures governing the acquisition, use, and replacement of ADP and telecommunications equipment;

(2) Establishing and overseeing a Departmental voice and data telecommunications management program for reducing Federal expenditures; and

(3) Evaluating the management and cost effectiveness of existing ADP and telecommunications equipment within HHS component organizations.

(d) Division of Data Processing is responsible for:

(1) Serving as a computer service organization which provides computer time and related services to the Office of the Secretary and, as resources permit, to other Department of Health and Human Services organizations;

(2) Designing and operating a Departmentwide Administrative Data Communications Utility; and

(3) Providing advice, guidance, and management with regard to automated data processing, telecommunications, and office systems management to the Office of the Secretary components.

C. Office of Management Analysis

The Office of Management Analysis advises senior Departmental officials on management and adminstrative issues related to the effective and efficient operation of the Department's programs. The Office of Management Analysis is responsible for:

1. Recommending management policies;

2. Implementing approved policies and assessing their effectiveness;

3. Analyzing organizational structures and management procedures and recommending improvements; and

4. Applying management science, systems analysis, and other quantitative techniques to the assessment of management problems.

(a) The Division of Organizational Analysis is responsible for:

(1) Serving as the principal source of advice to the Secretary on all aspects of Departmentwide organization analysis including: (a) planning for new organizational elements; (b) evaluating current organizational structures for effectiveness; (c) conducting the review process for reorganization proposals; and (d) maintaining documentation of the entire HHS organization to the division level;

(2) Administering the Department's system for the review, approval and documentation of delegations of authority;

(3) Overseeing HHS compliance with the National Environmental Policy Act, the National Historic Preservation Act, and related statutes and Executive Orders, by:

a. Maintaining liaison, for policy matters, with the Council on Environmental Quality, and related agencies and organizations;

b. Raising to the attention of the Secretary or other senior officials, policy matters which require their involvement;

c. Coordinating the review of environmental impact statements developed by other Federal departments; and

d. Providing technical assistance, training, procedural guidance and oversight, as necessary, to all HHS Operating Divisions to ensure their compliance with environmental and historic preservation requirements.

(4) Managing the Department's printing and copying activities by:

a. Providing policy guidance to, and oversight over, the printing and copying management programs carried out by the Department's Operating Divisions; and,

b. Providing Departmental liaison with the Congressional Joint Committee

on Printing, the Government Printing Office, and other governmental entities concerned with printing and copying management matters.

(5) Analyzing and recommending action on Freedom of Information Act appeals for documents denied by officials in the Office of the Secretary;

(6) Managing the HHS administrative directives system, with emphasis upon incorporation of Secretarial directives into that system; and

(7) Analyzing, and making recommendations related to, legislative proposals with potential impact upon the Department's organizational structure or managerial procedures.

(b) The Division of Management Evaluation is responsible for:

(1) Serving as the principal Departmental resource for carrying out management evaluations of programs and major functions, using a wide range of analytical methods including the application of quantitative analytical techniques;

(2) Analyzing programs and procedures to determine costs and efficiencies and to suggest alternative operating procedures where appropriate;

(3) Conducting management studies, surveys, and analyses of inter-agency and intra-agency programs, functions, and processes; and

(4) Administering the Department's special review procedures related to the obtaining of consultant services.

D. Office of Management Control

The Office of Management Control is responsible for:

1. Providing the Secretary and other key officials with advice and assistance in the implementation and installation of management systems for achieving end results from Departmental programs in the most effective and efficient manner possible.

2. Administering the HHS management-by-objectives process and providing the Secretary with periodic assessments of progress and problems related to the achievement of major operational objectives;

3. Administering the HHS management system used by the Secretary and other senior officials to guide, track, and record Departmental efforts aimed at reducing losses due to fraud, abuse, and waste; and

4. Providing advice on the managerial aspects of regulations, project proposals, policy issues, and decisions submitted for the Secretary's approval.

F. Office of Public and State Data Systems

The Office of Public and State Data Systems is responsible for:

1. Managing, in accordance with the Paperwork Reduction Act of 1980, the Department's activities related to the review and approval of all public-use reports and recordkeeping requirements which impose paperwork burden on the public;

2. Developing policies for, and administering, the Department's Information Collection Budget;

3. Developing policies and procedures for, and carrying out analytical and oversight activities related to, the Department's paperwork burden reduction efforts;

4. Establishing Departmental statistical policies;

5. Managing the Department's program for administering its internal forms and reporting requirements in the most effective and efficient manner possible and in accordance with the Paperwork Reduction Act of 1980;

6. Coordinating the Department's involvement in Federal interagency reports and forms;

7. Developing Departmental policies and procedures under which States obtain Federal financial participation in the costs of Automatic Data Processing (ADP) systems to support programs funded under the Social Security Act;

8. Acting as a central receiving point for, and coordinating the Departmental review and approval of, State requests for Federal funding in the cost of ADP system acquisitions; and

9. Coordinating the provision of technical assistance to states on information systems projects that will advance the use of computer technology in the administration of welfare and social services programs in the States.

Dated: January 20, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-2109 Filed 1-25-83; 8:45 am]

BILLING CODE 4150-04-M

Social Security Administration

Conformity of Public Assistance Plan of the State of Minnesota With the Social Security Act; Hearing

Notice of hearing is hereby given as set forth in the following letter that has been sent to the Minnesota Department of Public Welfare and the Office of the Attorney General of the State of Minnesota.

Washington, D.C., January 13, 1983.

Arthur E. Noot,

Commissioner, Minnesota Department of Public Welfare, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, and

Alan T. Held,

Special Assistant Attorney General, 515 Transportation Building, St. Paul, Minnesota 55155.

Gentlemen: This letter is in response to the petition of the State of Minnesota, filed for Warren Spannaus, Attorney General, State of Minnesota, requesting reconsideration of the disapproval of Minnesota's Plan Submittal No. 82-24, dated April 5, 1982, of an amendment to Minnesota's State plan under Title IV-A of the Social Security Act entitled Aid to Families with Dependent Children (AFDC). The State's request for reconsideration dated December 13, 1982 was received in the Regional Office of the Social Security Administration on December 17, 1982.

The proposed plan amendment for purposes of determining eligibility and benefit amount treats persons with earned income differently than persons with unearned income or no income. The amendment increases the standard of need by 35 percent for earned income cases only.

Pursuant to 45 CFR 201.4, I am scheduling a hearing to be held on the 3rd day of March 1983 in the City of Washington, D.C., at 10:00 A.M. in Rooms 303-305H, Hubert H. Humphrey Building, 200 Independence Avenue, SW. Please let me know if the time set for the hearing is agreeable to you.

In accordance with 45 CFR 213.21, I have designated Alexander G. Teitz, a Board Member of the Departmental Grant Appeals Board, as the presiding officer for the hearing in this matter. The hearing will be conducted under the procedures in 45 CFR Part 213. A copy of the designation is enclosed.

The issues which will be considered at the hearing include whether the proposed plan amendment, by treating applicants and recipients with earned income differently than applicants and recipients without earned income, violates:

1. 45 CFR 233.10 (a)(1) which requires that groups of individuals selected for inclusion in the state plan and the eligibility conditions imposed must not exclude individuals or groups on an arbitrary or unreasonable basis and must not result in inequitable treatment of individuals or groups in the light of the provisions and purposes of the AFDC program.

2. 45 CFR 233.20(a)(1) which requires that determination of need and amount of assistance will be made on an objective and equitable basis and all types of income will be taken into consideration in the same way except where otherwise specifically authorized by Federal statute.

3. 45 CFR 233.20(a)(2) which requires that there be a statewide standard of assistance to be used in determining the needs of applicants and recipients and the amount of any assistance payment.

4. Section 402(a)(18) of the Social Security Act, as added by the Omnibus Budget Reconciliation Act of 1981, which provides that no family shall be eligible for assistance for any month in which the total income of the family exceeds 150 percent of the State's standard of need.

5. Section 402(a)(17) of the Social Security Act, as added by the Omnibus Budget Reconciliation Act of 1981, which provides that where a family's income exceeds the standard of need due to receipt of lump sum income, the family shall be ineligible for assistance for the number of months equal to the family's income divided by the standard of need.

Any further inquiries or submissions or correspondence regarding this matter should be filed in an original and two copies with Mr. Teitz at the Departmental Grant Appeals Board, Room 2004, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, where the record in this matter will be kept. Each submission must include a statement that a copy of the material has been sent to the other party, identifying when and to whom the copy was sent. For convenience please refer to Docket No. 82-248 assigned to this matter.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 83-2124 Filed 1-25-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-83-1202]

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Housing and Urban Development Department.

ACTION: Notice of proposed amendments to existing systems of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act systems of records: HUD/DEPT-52, Privacy Act Requesters; and HUD/DEPT-55, Executive Personnel Files.

EFFECTIVE DATE: The amendments shall become effective without further notice on February 25, 1983, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-755-5908. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department is naming a new system manager for each system listed in order to accurately identify the official responsible for managing the system. This action is necessary to reflect current organizational placement of responsibility for managing these systems.

The notices were published November 4, 1981 at 46 FR 54893 (HUD/DEPT-52); and 46 FR 54894 (HUD/DEPT-55). The notices are being amended to read as follows:

HUD/DEPT-52

SYSTEM NAME: Privacy Act Requesters.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Information Policies and Systems, AI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

* * * * *

HUD/DEPT-55

SYSTEM NAME: Executive Personnel Files.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Headquarters Operations Division, Office of Personnel, APH, Department of Housing and Urban Development 451 Seventh Street, S.W., Washington, D.C. 20410.

* * * * *

[5 U.S.C. 552(a), 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Dated: January 20, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-2142 Filed 1-25-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through March 1983

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1261), The Department of the Interior must afford the affected public an opportunity to be aware of and to provide comments on water service and repayment contract negotiations being conducted by the Bureau of Reclamation. Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, and the Reclamation Reform Act, a tabulation is provided below of proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during January, February, or March of 1983. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Some of the actions listed have been publicized in the **Federal Register** previously. When this is the case, the date of publication is given. Individual notice of intent to negotiate, and other appropriate announcements, will be made in the **Federal Register** for those actions found to have widespread public interest. In addition, a wide variety of local publicity resources are being used selectively to inform the public affected by a specific contract proposal.

Acronym Definitions Used Herein:

(FR) **Federal Register**
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(SOFAR) Southern Fork American River

Pacific Northwest Region:

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Boise Project Board of Control, Boise Project, Idaho-Oregon; Irrigation repayment contract; 22,800 acre-feet of stored water in Arrowrock Reservoir.

3. Bridgeport Public Schools, Chief Joseph Dam Project, Washington; Irrigation water service contract for 25 acres for a term of 40 years.

4. Columbia Irrigation District, Washington; SRPA loan repayment contract; $3,376,000 proposed obligation.

5. Douglas County Oregon; SRPA loan repayment contract; $1,605,000 proposed loan obligation. Loan application also includes a request for $14,395,000 in grant funds towards anadromous fish enhancement, recreation, fish and wildlife functions.

6. Potholes Reservoir Bank Storage Pumpers, Columbia Basin Project, Washington; Long-term irrigation water service contract not to exceed 320 acres or 1,000 acre-feet of water annually for a term of up to 40 years; FR notice published November 3, 1981, Vol. 46, page 54648.

7. Northwest Land and Investment, Inc., Columbia Basin Project, Washington; Temporary water service contract for 40 acre-feet.

8. Okanogan ID, Okanogan Project, Washington; R&B loan repayment contract; $10,792,000 proposed obligation.

9. Miscellaneous Water Users, Pacific Northwest Region, Idaho-Oregon and Washington; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

10. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

11. City of Hillsboro, Tualatin Project, Oregon; Repayment contract to repay $368,000 estimated cost of channel improvement at Spring Hill Pumping Plant.

12. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contract; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

13. Outlook ID, Yakima Project, Washington; R&B loan repayment contract; $2,487,000 proposed obligation; FR Notice published February 4, 1982, Vol. 47, page 5363.

14. Sunnyside Valley ID, Yakima Project, Washington; R&B loan repayment contract; $13,221,000 proposed obligation.

15. Granger ID, Yakima Project, Washington; R&B loan repayment contract; $1,111,000 proposed obligation.

16. Sunnyside Valley Board of Control, Yakima Project, Washington; R&B loan repayment contract; $15,901,000 proposed obligation.

17. Washington Water Power Company, Inc., Columbia Basin Project, Washington; Industrial water service contract; 32,000 acre-feet of water per year from Franklin D. Roosevelt Lake for the proposed Creston Powerplant; FR notice published December 11, 1982, Vol. 46, page 60658.

Mid-Pacific Region:

Bureau of Reclamation, (Federal Office Building) 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4680.

1. El Dorado ID and El Dorado County Water Agency, CVP, California; Coordinated CVP/SOFAR Project operations and water service contract; 20,000 acre-feet with construction of Auburn Dam.

2. El Dorado ID, CVP, California; Amendatory water service contract; 1,000 acre-feet municipal and industrial water supply for service from Folsom Lake to the El Dorado Hills area.

3. 4–E Water District, CVP, California; Water service contract; 80 acre-feet; FR notice published October 3, 1979, Vol. 44, page 56991.

4. 2047 Drain Water Users Association, CVP, California; Water right settlement contract; FR notice published July 25, 1979, Vol. 44, page 43535.

5. Stockton-East Water District, CVP, California; Interim water service contract; 75,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982; Vol. 47, page 5473.

6. Central San Joaquin Water Conservation District, CVP, California; Water service contract; 49,000 acre-feet firm supply and 39,000 acre-feet interim supplies from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

7. Tuolumne Regional Water District, CVP, California; Water service contract; 3,200 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

8. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

9. Solano ID, Solano Project, California; Amendatory loan contract providing for reconveyance and M&I water supply delivery.

10. Carson-Truckee Water Conservancy District, Washoe Project, California/Nevada; Interim water service contract; 10,000 acre-feet; FR notice published May 14, 1981, Vol. 46, page 26705.

11. Miscellaneous Water Users, Mid-Pacific Region, California, Oregon and Nevada; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

12. State of California, Department of Water Resources, CVP, California; Interim water service contract for approximately 500,000 acre-feet.

13. State of California, CVP, California; Coordinated operations agreement for Federal Central Valley Project (CVP) and the State Water Project (SWP); FR notice published June 8, 1979, Vol. 44, page 33164.

14. Madera ID, CVP, California; Agreement for conveyance of non-project water in Millerton Lake and the Madera Canal; Maximum of 50 cfs, Friant Unit.

15. Pacheco Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

16. City of Redding, CVP, California; Agreement for operation of the City of Redding's Lake Redding Power Project and resolution of potential impacts on Keswick Powerplant.

17. South San Joaquin ID and Oakdale ID, CVP, California; Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

18. City of Santa Barbara, Cachuma Project, California; Agreement for conveyance of non-project water through Lauro Reservoir, Maximum of 21 cfs.

19. Yuba County Water Agency, South County Irrigation Project, SRPA, California; Loan repayment contract; $21,600,000 proposed obligation.

20. County of San Benito, San Felipe Division, CVP, California; Repayment

recreation agreement, will provide recreation facilities in an area that now has a deficit of recreation areas.

Upper Colorado Region:

Bureau of Reclamation, P.O. Box 11568, (125 South State Street) Salt Lake City, UT 84147, telephone (801) 524–5435.

1. Southern Ute Indian Tribe, Florida Project, Colorado; Amendatory contract to Contract No. 14–06–400–3038 of May 7, 1963; An administrative action to provide for delivery of 181 acre-feet of water presently delivered outside the terms of the existing contract.

2. Miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually M&I contractor for terms up to 2 years.

3. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado; Water service contract; 26,500 acre-feet per year for M&I use; 3,300 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

4. Ute Mountain Ute Indian Tribe, Animas-La Plata Project, Colorado and New Mexico; Water service contract; 6,000 acre-feet per year for M&I use; 26,600 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

5. Navajo Tribal Utility Authority, Animas La-Plata Project, New Mexico; M&I water service contract; 7,600 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

6. Ute Mountain Ute Tribe and Bureau of Indian Affairs, Dolores Project, Colorado; Repayment contract; 1,000 acre-feet per year for M&I use; 22,900 acre-feet per year for irrigation; FR notice published September 10, 1980, Vol. 45, No. 177, page 59642.

7. Fontenelle (Chevron) State of Wyoming, Seedskadee Project, Wyoming; Water sales contract for 22,500 acre-feet per year for industrial use. Environmental Impact Statement under preparation; approval pending outcome.

8. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22472.

9. La Plata Conservancy District, Animas-La Plata Project, New Mexico; Water service contract; 16,000 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

10. City of Farmington, Animas-La Plata Project, New Mexico; M&I water service contract; 19,700 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

11. City of Aztec, Animas-La Plata Project, New Mexico; M&I water service contract; 5,800 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

12. City of Bloomfield, Animas-La Plata Project, New Mexico; M&I water service contract; 5,300 acre-feet per year; FR notice published April 17, 1981, vol. 46, No. 74, page 22474.

13. Central Utah Project, Bonneville Unit, Utah; Supplemental M&I repayment contract for 99,000 acre-feet per year; FR notice published August 22, 1980, Vol. 45, No. 165, page 56199; will resume negotiations.

14. Ogden River Water Users Association, Weber Basin Project, Utah; Emergency loan to stabilize and reinforce surge tank foundation; data for cost estimation not yet available; contract negotiation will be forthcoming.

Lower Colorado Region:

Bureau of Reclamation, P.O. Box 427, (Nevada Highway and Park Street) Boulder City, NV 89005, telephone (702) 293–8536.

1. Lake Havasu IDD for Horizon Six and Ansazi Pueblo, Boulder Canyon Project, Arizona; M&I water service contracts for 170 and 313 acre-feet per year, respectively. Contract execution pending approval and/or request for negotiating sessions by Lake Havasu IDD and submission of subcontracts for Bureau approval.

2. City of Yuma, Boulder Canyon Project, Arizona; Supplemental and amendatory M&I water service contract; 3,613 acre-feet.

3. Agricultural and M&I water users, Central Arizona Project, Arizona; Water service subcontracts; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet for M&I use.

4. City of Needles, California; Contract for Miscellaneous Present Perfected Rights; Pursuant to Supreme Court Decree of March 9, 1964, in *Arizona* v. *California* as supplemented on January 9, 1979, for 1,500 acre-feet; Contract submitted to city for review and approval.

5. Cibola IDD, Boulder Canyon Project, Arizona; Water service contract for 22,560 acre-feet per year.

6. Roosevelt Water Conservation District, Higley, Arizona; R&B loan contract; $7,474,424; FR notice published March 30, 1979, Vol. 44, page 19048.

7. Roosevelt ID, Buckeye, Arizona; SRPA loan contract; $10,560,000; FR notice published December 9, 1980, Vol. 45, page 81130.

8. Ramona Municipal Water District, Ramona, California; SRPA loan contract; $19,224,000.

9. Fallbrook Public Utility District, Fallbrook, California; SRPA loan contract; $12,445,400.

Southwest Region:

Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. Village of Questa, San Juan-Chama Project, New Mexico; M&I water service contract for 200 acre-feet annually; FR notice published January 25, 1980, Volume 45, page 6178.

2. City of Belen, San Juan-Chama Project, New Mexico; M&I water service contract for 500 acre-feet annually. FR notice published April 26, 1982, Vol. 47, Page 1782.

3. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use; FR notice published August 13, 1981, Vol. 46, page 40940.

4. Foss Reservior Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work. Necessity of amendment is dependent upon outcome of pending Safety of Dams legislation, S. 956 and H.R. 3208.

5. Harlingen ID, Lower Rio Grande Valley, Texas; Repayment contract for R&B program; Estimated cost is $3 million.

6. Vermejo Conservancy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

7. City of Albuquerque, San Juan-Chama and Rio Grande Projects, New Mexico; A water storage contract to hold a portion of the city's San Juan-Chama Project water in Elephant Butte Reservoir for potential resale to the French Wine Growers Association to irrigate 4,200 acres near Elephant Butte Reservoir.

8. State of Oklahoma, McGee Creek Project, Oklahoma; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89–72), as amended.

9. State of Colorado, Closed Basin Division, San Luis Valley Project; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89–72), as amended; FR notice published February 12, 1982, Vol. 47, page 6493.

10. Arch Hurley Conservancy District, Tucumcari Project, New Mexico; R&B of project irrigation distribution system primarily dedicated to lining canals to conserve water.

11. New Mexico Interstate Stream Commission, San Juan-Chama Project, New Mexico; Interim irrigation water service contract for up to 2,000 acre-feet of water. The charge is expected to be approximately $8 per acre-foot.

12. San Angelo Water Supply Corporation, San Angelo, Texas; Repayment contract amendment may be needed for repayment of remedial structural work. Actual necessity for amendment is dependent upon Safety of Dams legislation for nonreimbursable funding.

Upper Missouri Region:

Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657–6413.

1. Miscellaneous Water Users, Upper Missouri Region, Montana, Wyoming, North Dakota and South Dakota; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

2. Individual Irrigators, Canyon Ferry Unit, P–SMBP, Montana; Irrigation water service contracts not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

3. Crook County ID (formerly Belle Fourche-Wyoming Water Association), Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 10 percent (presently 18,500 acre-feet) of Keyhole Reservoir storage space as provided by Belle Fourche River Compact; FR notice published August 21, 1980, Vol. 45, Page 55842.

4. Belle River Pumpers Association, Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 3 percent (presently 5,500 acre-feet) of Keyhole Reservoir storage space; FR notice published March 29, 1982, Vol. 47, Page 13234.

5. Montana Power Company, Yellowtail Unit, P–SMBP, Montana; Industrial water service contract; 6,000 acre-feet of water annually for Colstrip Power Complex; FR notice published February 3, 1981, Vol. 46, Page 10544.

6. City of Riverton, Boysen Unit, P–SMBP, Wyoming; M&I water service contract; Up to 4,000 acre-foot of water annually; FR notice published October 5, 1981; Vol. 46, Page 48996.

7. West River Conservancy Sub-District, Shadehill Unit, P–SMBP, South Dakota; Irrigation water service contract; 5,808 acre-feet of water or 3 acre-feet per acre for 1,936 acres.

8. Bill Larson, Arrowwood Golf Course, Canyon Ferry Unit, P–SMBP, Montana; Municipal water service contract for irrigation of golf course; Up to 490 acre-feet annually.

9. Deaver ID, Shoshone Project, Wyoming; R&B loan repayment contract; Up to $1.6 million; FR notice published April 21, 1982, Vol. 47 Page 17118.

10. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; FR notice published May 5, 1982 Vol. 47, Page 19472.

11. Dean and Sue Batt, Boysen Unit, P–SMBP, Wyoming; Irrigation water service, up to 15 acre-feet of water annually.

12. Hilde Construction Company, Canyon Ferry Unit, P–SMBP, Montana; Industrial water service contract; 25 acre-feet per year from Canyon Ferry Reservoir.

13. State of Wyoming, Buffalo Bill Dam Modifications, P–SMBP, Wyoming; Contract with State of Wyoming for division of additional water impounded, sharing of revenues, and sharing of costs to construct, operate, and maintain modification of the existing Buffalo Bill Dam and Reservoir.

14. WEB Rural Water Development Project, South Dakota; Grant and loan program for rural water facilities; To bring water to approximately 30,000 people and 50 rural communities.

15. Helena Valley ID, P–SMBP, Montana; R&B loan repayment contract; Up to $2.2 million.

16. Fort Shaw ID, Sun River Project, Montana; R&B loan repayment contract; Up to $1.5 million.

Lower Missouri Region:

Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 234–3327.

1. H&RW ID, Frenchman-Cambridge Unit, P–SMBP, Nebraska; Amendatory water service contract; $1,200,000 outstanding; FR notice published February 5, 1982, Vol. 47, Page 5472.

2. City of Cheyenne, Kendrick Project, Wyoming; Interim water storage contract; 10,000 acre-feet; FR notice published April 28, 1982, Vol. 47, page 18187.

3. Central Nebraska Public Power and ID, Glendo Unit, P–SMBP, Nebraska; Irrigation water service contract; 8,000 acre-feet; FR notice published February 7, 1980, Vol. 45, Page 8364.

4. Kirwin ID No. 1, Kirwin Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $31,051.64 payment deferral; FR notice published November 10, 1982, Vol. 47, page 51009.

5. Cedar Bluff ID No. 6, Cedar Bluff Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $18,820.10 payment deferral; FR notice published November 10, 1982 Vol. 47, page 51009.

6. Webster ID No. 4, Webster Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $32, 620.50 payment deferral; FR notice published November 10, 1982, Vol. 47, page 51009.

7. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Repayment contract for extension of the development period and revision of the repayment determination methodology; FR notice published September 28, 1982, Vol. 47, page 42642.

8. H&RW ID, Frenchman-Cambridge Division, P–SMBP, Nebraska; Deferment of repayment obligation for 1982; $38,688 payment deferral; FR notice published November 10, 1982, Vol. 47, page 51009.

9. Frenchman-Cambridge ID, Frenchman-Cambridge Division, P–SMBP, Nebraska; Amendatory R&B contract; Increases current R&B program obligation of $4.4 million to $5.5 million; FR notice published November 10, 1982, Vol. 47, page 51009.

10. Casper-Alcova ID, Kendrick Project, Wyoming; Amendatory contract to provide water service to subdivided district lands; FR notice published November 24, 1980, Vol. 45.

11. Corn Creek ID, Mitchell ID, Earl Micheal, Glenn Unit, Wyoming and Nebraska; Irrigation water service contracts.

12. Town of Breckenridge, Colorado-Big Thompson Project, Colorado; Storage in Green Mountain Reservoir.

13. Pueblo West Metropolitan District, Fryingpan-Arkansas Project, Colorado; Use of municipal outlet of Pueblo Dam for conveyance service.

14. Natron County, Wyoming, town of Mills, Wyoming, Wardwall Water and Sewer District Impact Joint Powers Board, Kendrick Project; Interim water storage contract; 750 acre-feet.

15. Miscellaneous water users, Lower Missouri Region, Southeastern Wyoming, Colorado, Nebraska and northern Kansas; Temporary (interim) water service contracts for surplus project water, maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public for observation. Only those people with authority to act on behalf of the appropriate public entities may negotiate the terms and conditions of a specific contract proposal. Advance notice of such meetings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(3) Written comments on a proposed contract must be submitted to the appropriate Bureau officials at locations and within time limits set forth in advance public notices or as otherwise established by Bureau officials. Such written comments received and testimony presented at any public hearing will be reviewed and summarized by regional staff for use by the appropriate contract approving authority; i.e., a Regional Director, the Commissioner of Reclamation, or the Sectetary of the Interior.

(4) As specific proposed contracts become available for review and comment, copies may be obtained from the appropriate Regional Director identified above.

Dated January 20, 1983.

B. H. Spillers,

Acting Commissioner of Reclamation.

[FR Doc. 83-2107 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Conservation Plan for Incidental Take of Endangered Wildlife; Proposed Finding of No Significant Impact

AGENCY: Fish and Wildlife Service, Interim.

ACTION: Notice of proposed finding of no significant impact.

SUMMARY: A joint Federal Environmental Assessment and California Environmental Impact Report (hereinafter referred to as the "EA/EIR") has been prepared for the proposed incidental take of the mission blue butterfly *(Icaricia icarioides missionesis)*, San Bruno elfin butterfly *(Callophrys mossii bayensis)*, and San Francisco garter snake *(Thamnophis sirtalis tetrataenia)* under a conservation plan pursuant to Section 10(a) of the Endangered Species Act of 1973, as amended. On the basis of the EA/EIR and related documents the Services proposes to determine that the proposed incidental take of these endangered animals would not constitute a major Federal action significantly affecting the quality of the human environment and that a separate Federal Environmental Impact Statement will not be prepared for this proposed activity.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Parsons; Chief, Federal Wildlife Permit Office; U.S. Fish and Wildlife Service; P.O. Box 3654; Arlington, Virginia 22203; (703) 235–1903.

SUPPLEMENTARY INFORMATION: On December 2, 1982, the Service published a notice in the **Federal Register** (47 FR 232, 54366–54367) soliciting public comments on an endangered species permit application jointly submitted by the County of San Mateo, CA; City of Brisbane, CA; City of Daly City, CA; and the City of South San Francisco, CA, for the incidental take of the endangered wildlife mentioned above. The notice provided background information on the permit application and the conservation plan to be used by the applicant to offset loss of the endangered wildlife due to incidental take during a development project within the San Bruno Mountain area in San Mateo County, California. The public comment period ended on January 3, 1983.

The Service is considering the issuance of a permit under the Endangered Species Act that would authorize the incidental taking of the mission blue butterfly, San Bruno elfin butterfly, and San Francisco garter snake within the San Bruno Mountain area. The permit would be conditioned on implementation of the San Bruno Mountain Area Habitat Conservation Plan through an Agreement with respect to such Plan to be entered into by concerned Federal, State, and local parties. The 1982 San Bruno Mountain Area Habitat Conservation Plan and the proposed permit have been the subject of a combined EA/EIR which was finalized in November, 1982. Between 1976 and 1982, local government entities in San Mateo County approved general plans for development and for protection of open space areas of San Bruno Mountain. These local government land use decisions were subject to full consideration in California Environmental Impact Reports and issuance of the proposed permit would be in harmony with such decisions.

Forty (40) public comments were received on this permit application. Based on a review of these public comments and evaluation of the information provided by the EA/EIR, the Habitat Conservation Plan, the Agreement, and other relevant documents, the Service has tentatively determined that as conditioned and mitigated by the requirements of the Habitat Conservation Plan and Agreement, issuance of a permit authorizing the incidental taking of mission blue butterflies, San Bruno elfin butterflies, and San Francisco garter snakes within the San Bruno Mountain area is not a major Federal action which would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act. Therefore, a separate Federal Environmental Impact Statement for this action is not currently scheduled to be prepared.

Pursuant to Title 40, Code of Federal Regulations, § 1501.4(e)(2), the Fish and Wildlife Service is making available for public review a Proposed Finding of No Significant Impact prior to making a final determination regarding the preparation of a separate Federal EIA or a Final Finding of No Significant Impact for the San Bruno Mountain incidental take permit application. Copies of the Proposed Finding of No Significant Impact will be on file for public review, during normal business hours until February 25, 1983, at the following locations: Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 601, Arlington, VA 22201, (703/235–1903); U.S. Fish and Wildlife Service, Region 1, Office of Federal Assistance, Lloyd 700 Building, Suite 550, 550 NE Multnomah Street, Portland, OR 97232 (503/231–6134) and; U.S. Fish and Wildlife Service Sacramento Office of Endangered Species, 1230 "N" Street, 14th Floor, Sacramento, CA 95814 (916/440–2791).

This action has been reviewed under the requirements of the National Environmental Policy Act (NEPA), as amended, the Council on Environmental Quality's NEPA Regulations (40 CFR Parts 1500–1508), and the Service's

guidelines concerning the implementation of NEPA.

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

Robert A. Jantzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 83-2123 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Terry Snyder, Felton, PA, PRT 2-9868.

The applicant requests a permit to purchase in interstate commerce one captive-bred jaguar (*Panthera onca*) from Mr. Joseph Maynard, Rosamond, California for enhancement of propagation.

Applicant: Roeding Park Zoo, Fresno, CA, PRT 2-9932.

The applicant requests a permit to purchase in interstate commerce two Asian elephants (*Elephas maximus*) from Christiani Elephants, Inc., Myakka City, Florida for enhancement of propagation.

Applicant: Ralph V. Smith, Turquoisine Aviariis, Calimesa, CA, PRT 2-9973.

The applicant requests a permit to import captive bred Turquoisine parakeets (*Neophema pulchella*) and Scarlet-chested parakeets (*N. splendida*) from three European aviculturists for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 21, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-2120 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take polar bears as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: Richard N. Silverstein, M.D., *et al.*

b. Address: 3930 Richmond Avenue, Staten Island, NY 10021.

2. Type of permit: Take (sacrifice).

3. Name and number of animals: Polar bear (*Ursus maritimus*), one adult male.

4. Type of Activity: Sacrifice for biomedical research on Vitamin A metabolism and related efforts.

5. Location of Activity: Take to occur in Alaska: Research to occur at various institutions.

6. Period of Activity: Take between April 1-May 1, 1983.

The purpose of this application is to obtain a permit to authorize the sacrifice of one adult polar bear for biomedical research by serveral investigators including Dr. Silverstein. The primary objective of the research is to determine how polar bears, animals having unusually high concentrations of Vitamin A, are able to metabolize Vitamin A and block development of Vitamin A associated diseases. This basic research is to be used in determining ways to deal with abnormal Vitamin A metabolism in man.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9931. Written data or views, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: January 21, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-2122 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 54 Federal Unit Agreement No. 14-08-001-3444, submitted on January 11, 1983, a proposed supplemental plan of development describing the activities it proposes to conduct on the South Timbalier Block 54 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 17, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-2067 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Change in Discount Rate for Water Resources Planning

AGENCY: Office of Water Policy, Interior.

ACTION: Notice of change in discount rate.

SUMMARY: This notice sets forth the discount rate to be used in Federal water resources planning for fiscal year 1983.

DATES: This discount rate is to be used for the period October 1, 1982, through and including September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Deason, Office of Water Policy, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 7⅞ percent for fiscal year 1983.

This rate has been computed in accordance with Sec. 80(a), Pub. L. 93-251 (88 Stat. 34) and 18 CFR 704.39, and, accordingly, is to be used by all Federal agencies in the formulation and evaluation of water and related land resources plans for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

Dated: January 19, 1983.

Thomas G. Bahr,

Director.

[FR Doc. 83-2096 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-10-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-187 (Final)]

Tool Steels From Brazil; Countervailing Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 3, 1983.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (19 U.S.C. 1671), are being provided to manufacturers, producers, or exporters in Brazil of certain tool steels provided for in items 606.93, 606.94, 606.95, 607.28, 607.34, 607.46, and 607.54 of the Tariff Schedules of the United States, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-187 (Final) under section 705(b) of the act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final countervailing duty determination in the case on or before March 14, 1983, and the Commission will make its final injury determination by May 2, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Miller (202-523-0305), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On September 13, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of certain tool steels alleged to be subsidized by the Government of Brazil. The preliminary investigation was instituted in response to a petition filed on July 30, 1982, by counsel for several specialty steel producers and the United Steelworkers of America.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, February 10, 1982), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, February 10, 1982). A copy of the nonconfidential version of each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, August 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 9, 1983, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing.—The Commission will hold a joint hearing in connection with this investigation and with inv. No. 731-TA-100 (Final), Certain Tool Steel from the Federal Republic of Germany, beginning at 10:00 a.m. on March 23, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 4, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 18, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, February 10, 1982) and must be submitted not later than the close of business on April 1, 1983.

Written submissions.—As mentioned, parties to this investigation may file

prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 1, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, February 10, 1982, and 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: January 17, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2150 Filed 1-25-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-125]

Grooved Wooden Handle Kitchen Utensils and Gadgets; Request for Comments Regarding Proposed Termination of Investigation Based on Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comments on the proposed termination of this investigation based on a consent order agreement.

SUMMARY: On November 30, 1982, complainant Bonny Products, Inc., respondents Four Star International Trading Co., and G & S Metal Products Co., Inc., and the Commission investigative attorney jointly moved to terminate the above-captioned investigation based on a consent order agreement (Moton No. 125-1). The proposed consent order agreement is based on a settlement agreement that was executed on November 19, 1982, by all the parties to the investigation and by a nonparty, Shen Fa Handicraft Center. On December 6, 1982, the presiding officer recommended [1] that the Commission grant Motion No. 125-1 by accepting the settlement agreement and the consent order agreement, but with paragraph 2 of the consent order deleted. Motion No. 125-1 and all the papers and exhibits filed in connection with it have been certified to the Commission by the presiding officer.

Pursuant to § 211.21 of the Commission's Rules of Practice and Procedure, the Commission seeks written comments from interested members of the public on the proposed termination of the investigation based on the consent order agreement. A nonconfidential version of the consent order agreement is set forth as follows:

Consent Order Agreement

Bonny Products, Inc. ("Complainant") filed a complaint on July 7, 1982, with the United States International Trade Commission ("Commission") under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) regarding certain acts and practices of "Respondents" Four Star International Trading Co., Inc., and G & S Metal Products Co., Inc.

The Commission, having determined that it has jurisdiction over the subject matter of the complaint and that the complaint states a cause of action under Section 337, instituted Investigation No. 337-TA-125 on August 5, 1982, and published notice to that effect.

The subject matter of the investigation is the importation into and sale in the United States of certain grooved wooden handle kitchen utensils and gadgets by reason of alleged (1) misappropriation of trade dress, (2) false representation of source, and (3) common law trademark infringement, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant and Respondents have agreed to settle with final effect all differences and claims of whatever nature underlying said complaint and investigation as set forth in the Settlement Agreement attached hereto as Attachment A and incorporated by reference as though fully set forth herein.

Now therefore, Complainant and Respondents desiring to terminate the investigation before the ruling by the Commission on any findings of fact or conclusion's of law and before the hearing or adjudication of any issue of fact or law related thereto agree that:

1. The Commission has, and Respondents and Complainant admit that the Commission, has subject matter jurisdiction, in rem jurisdiction, and in personam jurisdiction in this proceeding.

2. Respondents and Complainant agree to entry of a Consent Order, the term of which are as set forth in the Proposed Consent Order attached hereto as Attachment B and incorporated by reference as though fully set forth herein (hereinafter "Consent Order").

3. Respondents and Complainant waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. Enforcement, modification and revocation of the Consent Order entered pursuant to this agreement will be carried out pursuant to Subpart C of Part 211 of the Commission's Rules of Practice and Procedure (19 CFR 211).

5. Respondents have redesigned the wooden handle used on kitchen utensils and gadgets in current production (the redesigned handle is attached hereto as Exhibit 3), and Complainant agrees that the redesigned handle does not reasonably resemble the handle defined in paragraph 1 of the attached Settlement Agreement. In the event that during, and for a one year period following, the disposal by Respondent G & S of current inventory, as defined in paragraphs 2 and 3 of the Settlement Agreement, Respondents decide to

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[1] We note that this matter was transmitted by the presiding officer to the Commission as a Recommended Determination rather than an Initial Determination. While we will consider this matter as a Recommended Determination, we believe that motions to terminate an investigation should come to the Commission in the form of an Initial Determination pursuant to Rule 210.53(c). *See* Notice of Commission Not To Review Initial Determination in Inv. No. 337-TA-128, 47 FR 8050 (1982).

utilize a wooden handle or wooden handles on its kitchen utensils and gadgets other than the one shown in Exhibit 3 or a wooden handle or wooden handles substantially similar to the one shown in Exhibit 3. Respondents, through counsel for Respondent G & S, will submit the proposed new handle or handles to counsel for Complainant and request counsel for Complainant's statement that the proposed new design does not reasonably resemble the handle shown in Exhibit 2 (Complainant's handle). Counsel for Complainant shall provide his statement orally to counsel for Respondent G & S within three days of counsel for Complaintant's (sic) receipt of the new design or designs. The oral statement shall be confirmed in writing and mailed to counsel for Respondent G & S within 24 hours of the oral statement. The proposed design or designs shall not be shown to Complainant and shall be kept confidential. Counsel for Complainant shall also follow this procedure if he determines that the design reasonably resembles the handle shown in Exhibit 2 and requests in writing that Respondent withdraw the proposed design. Respondents will not, directly or through others, export to, import into, sell in or distribute in the United States kitchen utensils or gadgets with the proposed new handle or handle design until after the completion of all proceedings and compliance with all requirements set forth in this paragraph and paragraphs 6, 7, and 8 of this agreement.

6. In the event that counsel for Complainant objects to a design proposed by Respondents in that the proposed design reasonably resembles the handle shown in Exhibit 2, and in the event that Respondents disagree with that objection and do not withdraw the design, counsel for Respondent G & S shall within five days of receipt of counsel for Complainant's written objection submit to the Unfair Import Investigation Division, U.S. International Trade Commission ("UIID") a written statement of Respondents' reasons why Complainant's objections are not reasonable.

Such a statement shall be concurrently submitted to counsel for Complainant. Counsel for Complainant shall also within five days of receipt of counsel for Respondent G & S's statement, submit to the UIID a written statement of reasons why the proposed design does reasonably resemble the handle shown in Exhibit 2.

7. Upon receipt of the written statements by all parties, the UIID shall promptly state whether there is a reasonable basis for Complainant to object to the proposed design in that the proposed design reasonably resembles the Complainant's handle as shown in Exhibit 2. If the UIID states that there is a reasonable basis for said objection, Complainant's counsel may inform Complainant of the contemplated changes, but in no event will counsel show Complainant the proposed design. If the UIID states that there is a reasonable basis for the objection by Complainant's counsel to the new design, counsel for Respondents shall inform counsel for Complainant within five days after receipt of the UIID statement, if it will request a Commission proceeding pursuant to paragraph 8.

8. For the purpose of securing compliance with the Consent Order, any violation hereof shall result in a proceeding before the Commission to determine what action should be taken with respect to such violation of the Consent Order including an exclusion order, cease and desist order, and possible fines. Such a proceeding may be instituted if the Commission receives written notice from the Complainant, Complainant's counsel, or the UIID, or receives written request from Respondents to review the UIID statement, or otherwise has reason to believe that Respondents are not complying with the Consent Order and accompanying settlement agreement.

9. Complainant shall inform the UIID and counsel for Respondent G & S if a United States Federal Court or the United States Patent and Trademark Office has made a final determination and all appeals or time for appeals have expired, that the design shown in Exhibit 2 is not a valid trademark and/or valid trade dress of Complainant.

10. Respondent G & S shall inform the Commission in writing the date on which it disposes of all the inventory described in paragraph 3 of the Settlement Agreement. This Consent Order shall expire 12 months from the date on which all such inventory is disposed.

Attachment A (Settlement Agreement)

This agreement is made and entered into by and between Bonny Products, Inc. ("Bonny" or "Complainant"), and Four Star International Trading Co., G & S Metal Products Co., Inc. ("Four Star," "G & S", or Respondent [s]"), and Shen Fa Handicraft Center ("Shen Fa"), and is to settle and compromise the investigation (No. 337–TA–125) by the United States International Trade Commission ("Commission") instituted on August 5, 1982 in response to Complainant's action filed on July 7, 1982 under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). Complainant and Respondents have agreed to settle with final effect all differences and claims of whatsoever nature underlying said complaint and investigation in consideration of the mutual convenants set forth as follows:

1. Respondents and Shen Fa, their shareholders and corporate officers, and any present or future entities in which Respondents and Shen Fa, their shareholders or corporate officers have an ownership interest or managerial position, will not, directly or through others, manufacture, export to, import into, sell, or distribute in the United States or in any country, kitchen utensils and gadgets that (a) have a wooden handle like that of Exhibit 1 (Respondents' products) or (b) have a wooden handle in a form reasonably resembling the grooved and tapered handle that is attached hereto as Exhibit 2 (Complainant's products).

2. Notwithstanding the provisions of paragraph 1, Respondent G & S will be allowed to sell or offer to dispose of its United States inventory discussed in paragraph 3 of this agreement for eight months after the effective date of this agreement. All sales shall be on a one-time promotional basis and no additional supplies shall be offered or provided to a customer except to satisfy the requirements of the promotion as set forth by the appropriate governmental authority, and Respondent G & S shall so inform each purchaser.

3. Respondent G & S will provide Complainant with an accounting of its current United States inventory—which consists of approximately ——— individual kitchen utensils or gadgets and is estimated to be ——— at wholesale cost—of grooved and tapered wooden handle kitchen utensils and gadgets as shown in Exhibit 1. Such accounting shall be provided no later than on the effective date of this agreement. Respondent G & S shall supply to Complainant a second accounting of its inventory 120 days after the effective date of this agreement. Respondent G & S shall provide a final accounting to Complainant at the end of eight months after the effective date of this agreement. If Respondent G & S has disposed of all of the inventory prior to the required date of the second or third accounting, G & S shall, within twenty days of final disposition, provide to Complainant a final accounting and no additional accounting will be required. All such accountings shall be certified by a certified public accountant of Respondent G & S's choice.

4. Respondents warrant that the inventory identified in paragraph 3 constitutes the only existing inventory of the kitchen utensils and gadgets identified in Exhibit 1 that have been manufactured, exported to, imported into, sold or distributed in the United States or in any country by Respondents except for inventory that has been previously sold to retail accounts. Shen Fa warrants that it has no existing inventory of handles like those identified in Exhibit 1.

5. This agreement shall not be construed as an admission of liability on the part of the Respondents and Shen Fa regarding allegations raised in the complaint or in the investigation. For settlement purposes only, Respondents and Shen Fa recognize Complainant's rights to and in kitchen utensils and gadgets with handles as identified in Exhibit 2.

6. Within ten days of the effective date of this agreement, Complainant and Respondents shall execute a Joint Motion for Termination with the Commission Investigative Attorney and agree to a consent order to be submitted to the Commission pursuant to § 211.20 of the Commission's Rules of Practice and Procedure.

7. Jurisdiction over any disputes or matters arising under this agreement shall lie with the United States District Court in the District of Columbia.

8. This agreement, including Exhibits 1 and 2 hereto, and the attached consent order and consent order agreement, including Exhibit 3, represent the full and entire agreement for the settlement and compromise of the disputes and claims between the parties as set forth herein. Complainant specifically agrees that it will not institute a civil action in any court worldwide to seek remedies for any prior sales by Respondents and for any prior sale by Shen Fa to Respondents of the wooden handle design shown in Exhibit 1.

9. Each party to this agreement shall bear any costs incurred by it in the performance of this agreement.

Attachment B (Consent Order)

The United States International Trade Commission having initiated an investigation under section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. 1337), of certain acts and practices of Respondents Four Star International Trading Co., Inc. and G & S Metal Products Co., Inc. ("Respondent's").

Respondents and Complainant, by their officers, and counsel for the Commission having executed an agreement to the terms of this Consent Order, an admission of all jurisdictional facts necessary to the entry of this Consent Order, an express waiver of all rights to seek judicial review or otherwise challenge or contest the validity of the consent order, and a statement that the enforcement, modification, and revocation will be carried out pursuant to Subpart C of Part 211 of the Commission's Rules of Practice and Procedure; and this Consent Order being necessary to conclude a compromise and settlement between Respondents and Complainant and to ensure the public interests; and

The Commission having published the Settlement Agreement and Consent Order Agreement and Consent Order on , 1983, and the thirty day period for public comment having ended and having duly considered all comments filed, the Commission hereby makes the following jurisdictional findings and enters the following order:

Order

1. The U.S. International Trade Commission has subject matter jurisdiction, in rem jurisdiction, in personam jurisdiction, and the proceeding is in the public interest.

2. This Consent Order shall apply to Complainant and Respondents, their shareholders and corporate officers, and any present or future entities in which Complainant and Respondents, their shareholders or corporate officers have an ownership interest or managerial position.

3. Respondents have redesigned the wooden handle used on kitchen utensils and gadgets in current production (the redesigned handle is attached hereto as Exhibit 3), and Complainant agrees that the redesigned handle does not reasonably resemble the handle defined in paragraph 1 of the attached Settlement Agreement. In the event that during, and for a one year period following, the disposal by Respondent G & S of current inventory, as defined in paragraphs 2 and 3 of the Settlement Agreement, Respondents decide to utilize a wooden handle or wooden handles on its kitchen utensils and gadgets other than the one shown in Exhibit 3 or a wooden handle or wooden handles substantially similar to the one shown in Exhibit 3, Respondents, through counsel for Respondent G & S, will submit the proposed new handle or handles to counsel for Complainant and request counsel for Complainant's statement that the proposed new design does not reasonable resemble the handle shown in Exhibit 2 (Complainant's handle). Counsel for Complainant shall provide his statement orally to counsel for Respondent G & S within three days of counsel for Complainant's receipt of the new design or designs. The oral statement shall be confirmed in writing and mailed to counsel for Respondent G & S within 24 hours of the oral statement. The proposed design or designs shall not be shown to Complainant and shall be kept confidential. Counsel for Complainant shall also follow this procedure if he determines that the design reasonably resembles the handle shown in Exhibit 2 and requests in writing that Respondent withdraw the proposed design. Respondents will not, directly or through others, export to, import into, sell in or distribute in the United States kitchen utensils or gadgets with the proposed new handle or handle design until after the completion of all proceedings and compliance with all requirements set forth in this paragraph and paragraphs 4, 5, and 6 of this order.

4. In the event that counsel for Complainant objects to a design proposed by Respondents in that the proposed design reasonably resembles the handle shown in Exhibit 2, and in the event that Respondents disagree with that objection and do not withdraw the design, counsel for Respondent G & S shall within five days of receipt of counsel for Complainant's written objection submit to the Unfair Import Investigation Division, U.S. International Trade Commission ("UIID") a written statement of Respondents' reasons why Complainant's objections are not reasonable. Such a statement shall be concurrently submitted to counsel for Complainant. Counsel for Complainant shall within five days of receipt of the statement of counsel for Respondent G & S, submit to the UIID a written statement of reasons why the proposed design does reasonably resemble the handle shown in Exhibit 2.

5. Upon receipt of the written statements by all parties, the UIID shall promptly state whether there is a reasonable basis for Complainant to object to the proposed design in that the proposed design reasonably resembles the Complainant's handle as shown in Exhibit 2. If the UIID states that there is a reasonable basis for said objection, Complainant's counsel may inform Complainant of the contemplated changes, but in no event will counsel show Complainant the proposed design. If the UIID states that there is a reasonable basis for the objection by Complainant's counsel to the new design, counsel for Respondents shall inform counsel for Complainant within five days after receipt of UIID's determination, if it will request a Commission proceeding pursuant to paragraph 6.

6. For the purpose of securing compliance with this Consent Order, any violation hereof shall in a proceeding before the Commission to determine what action should be taken with respect to such violation of the Consent Order including an exclusion order, a cease and desist order and possible fines. Such a proceeding may be instituted if the Commission receives written notice from the Complainant, Complainant's counsel or the UIID, or receives written request from Respondents to review the UIID statement, or otherwise has reason to believe that Respondents are not complying with the Consent Order and the Settlement Agreement attached hereto as Attachment A and incorporated by reference as though fully set forth herein. Any such proceeding must be commenced with (sic) ten (10) days after notice of intention to proceed is given.

7. Complainant shall inform the UIID and counsel for Respondent G & S if a United States Federal Court or the United States Patent and Trademark Office has made a final determination, and all appeals or time for appeals have expired, that the design shown in Exhibit 2 is not a valid trademark and/or valid trade dress of Complainant.

8. Respondent G & S shall inform the Commission in writing the date on which it disposes of all of the inventory described in paragraph 3 of the Settlement Agreement. This Consent Order shall expire 12 months from the date on which all such inventory is disposed.

DEADLINE: All comments must be received within thirty (30) days of publication of this notice.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337–TA–125 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain grooved wooden handle kitchen utensils and gadgets, by reason of alleged (1) misappropriation of trade dress, (2) false representation of source, and (3) common law trademark infringement. The alleged effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Copies of any nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0079.

By order of the Commission.

Issued: January 20, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2160 Filed 1-25-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–120]

Silica-Coated Lead Chromate-Pigments; Hearing on Presiding Officer's Recommendation and on Relief, Bonding, and Public Interest, and Schedule for Filing Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: The scheduling of a public hearing and written submissions in investigation No. 337-TA-120, Certain Silica-Coated Lead Chromate Pigments.

Notice is hereby given that the presiding officer in this investigation has issued a recommended determination that there is no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the unauthorized importation into the United States and in the sale of the silica-coated lead chromate pigments that are the subject of the investigation. Accordingly, the presiding officer's recommendation and the record have been certified to the Commission for review and a Commission determination. Interested persons may obtain copies of the nonconfidential version of the presiding officer's recommendation (as well as any other public documents on the record of the investigation) by contacting the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

COMMISSION HEARING: The Commission will hold a public hearing on March 14, 1983, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's recommended determination that no violation of section 337 of the Tariff Act of 1930 exists. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond during the Presidential review period in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden upon the parties.

ORAL ARGUMENTS: Parties to the investigation and interested Government agencies may present oral arguments concerning the presiding officer's recommended determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i. e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, Government agencies, and the Commission investigative attorney. Any rebuttals will be held in this order: respondents, complainant, Government agencies, and the Commission investigative attorney. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commission by the presiding officer.

ORAL PRESENTATIONS ON RELIEF, BONDING, AND THE PUBLIC INTEREST: Following the oral arguments on the presiding officer's recommendation, parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainant, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents' being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations

which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

TIME LIMIT FOR ORAL ARGUMENT AND ORAL PRESENTATION: Complainant, respondents (taken collectively), the Commission investigative attorney, and Government agencies will be limited to a total a of 30 minutes (exclusive of time consumed by questions from the Commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making only oral presentations on remedy, bonding, and the public interest will be limited to 10 minutes (exclusive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the aforementioned time limits upon receipt of a timely request to do so.

WRITTEN SUBMISSIONS: On order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issues of violation (to the extent they have not already briefed that issue in their written exceptions to the presiding officer's recommended determination), remedy, bonding, and the public interest. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file writen submissions addressing the issues of remedy, bonding, and the public interest. Written submissions on the question of violation must be filed not later than the close of business or February 10, 1983; written submissions on the questions of remedy, bonding, and the public interest must be filed not later than the close of business on February 17, 1983. During the course of the hearing, the parties may be asked to file posthearing briefs.

NOTICE OF APPEARANCE: Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by March 7, 1983.

ADDITIONAL INFORMATION: Persons submitting briefs and/or written submissions must file the original document and 14 true copies thereof with the office of the Secretary on or before the deadlines stated above. Any person desiring to discuss confidential information or to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential the information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be availble for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of April 21, 1982, 47 FR 17134.

FOR FURTHER INFORMATION CONTACT: Gracia M. Berg, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1626.

Issued: January 19, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2158 Filed 1–25–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–118]

Sneakers With Fabric Uppers and Rubber Soles; Termination of Seven Respondents Based on a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation with respect to respondents Melville Corp., Thom McAn Shoe Co., Inc. Stride-Rite Footwear, Inc., Stride-Rite International, Ltd., Stride-Rite Corp., Genesco, Inc., and San Shoe Trading Corp. based on a settlement agreement.

SUMMARY: On September 24, 1982, complainant Van Doren Rubber Co., Inc. and the aforementioned respondents filed a joint motion, Motion No. 118–14, to terminate the investigation with respect to the aforementioned respondents on the basis of a settlement agreement. On November 8, 1982, the presiding officer recommended that the Commission grant the motion. The Commission published a **Federal Register** notice on December 15, 1982, seeking comments from interested members of the public and other government agencies on the proposed termination of the aforementioned respondents, (47 FR 56217). No comments were received. On January 20, 1983, the Commission granted the motion to terminate the investigation with respect to the aforementioned respondents on the basis of the settlement agreement.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and concerns alleged unfair trade practices in the importation into and sale in the United States of certain sneakers with fabric uppers and rubber soles. The Commission published notice of the institution of this investigation in the **Federal Register** of March 9, 1982, (47 FR 10103).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.), in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 F Street NW., Washington, D.C. 20436, telephone 202–523–0143.

By order of the Commission.

Issued: January 21, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2157 Filed 1–25–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decision; Decision-Notice

In the matter of 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 Novermber 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 and 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 aplicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-22

Decided: Janaury 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 119640 (Sub-1), filed January 4, 1983. Applicant: OVERLAND STAGES, INC., 2600 Willowburn Ave., P.O. Box 26,040, Dayton, OH 45426. Representative: Edgar M. Hymans, 1587 Elizabeth Place, Cincinnati, OH 45237, (1-513) 242-7681. Transporting *passengers*, in charter and special opeartions, beginning at points in OH, IN and KY, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 136740 (Sub-1), filed January 6, 1983. Applicant: HY'S LIVERY SERVICE, INC., 489 Campbell Ave., West Haven, CT 06516. Representative: John J. Buckley, 250 Church Street, New Haven, CT 06510, (203) 624-2424. Transporting *passengers*, in charter and special operations, beginning and ending at points in CT, ME, NH, MA, RI, NY, NJ, PA, DE, MD, VA and DC, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161781 (Sub-1), filed January 3, 1983. Applicant: AAA PICKUP AND DELIVERY, INC., 2615 Crestwood Dr., Birmingham, AL 35215. Representative: Julius Fore (same-address as applicant), (205) 854-1705. Over regular routes, transporting *passengers*, between Birmingham, AL, and Iuka, MS, from Birmingham, over U.S. Hwy 78 to Jasper, AL, then over AL Hwy 4 via Nouvoo, AL, to National Bridge, AL, then over AL Hwy 5 via Haleyville, AL, to Bear Creek, AL, then over AL Hwy 172 to junction U.S. Hwy 43, then over U.S. Hwy 43 to Hackleburg, AL, then over AL Hwy 172 to Vina, AL, then over AL Hwy 19 to Red Bay, AL, then over AL Hwy 366 to junction MS Hwy 366, then over MS Hwy 366 to Belmont, MS, then over MS Hwy 25 to Iuka, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 165510, filed January 5, 1983. Applicant: NANCY A. GODFREY, 362B, Highway 46, Great Meadows, NJ 07838. Representative: Nancy A. Godfrey (same address as applicant), (201) 637-4137. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165540, filed January 6, 1983. Applicant: XEROX CORPORATION, 800 Phillips Rd., Bldg. 214B, Webster, NY 14580. Representative: Peter Ketchum (same address as applicant), (716) 422-6911. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 3 at 202-275-5223.

Volume No. OP3-15

Decided: January 19, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165415, filed December 27, 1982. Applicant: AZALEA COACH CORPORATION, 4208 Brook Rd., Richmond, VA 23227. Representative:

William L. Jeffries, Jr., 523 E. Main St., Richmond, VA 23219, (804) 643–9066. 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.

MC 165434, filed January 3, 1983. Applicant: C. M. CONSULTANTS CORPORATION, 2818 DeCamp Rd., Youngstown, OH 44511. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passenger,* in charter and special operations, beginning and ending at points in OH and PA and extending to points in the U.S. (except HI).

Note. Applicant seeks to provide privately-funded charter and special transportation.

MC 165475, filed January 3, 1983. Applicant: JOHNNIE L. McDONALD, d.b.a. SUSIE Q. EXPRESS, 1417 Shawnee Trail, Henderson, TX 75653. Representative: (Same as applicant), (214) 657–7095. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle between points in the U.S. (except HI).

MC 165484, filed January 4, 1983. Applicant: JIMKE, INC., 4026 Whitehall Dr., Charlotte, NC 28208. Representative: Mark Perry, 236 Massachusetts Ave., NE., Suite 409, Washington, D.C. 20002, (202) 546–2298. 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 165464, filed December 28, 1982. Applicant: GRAYSON TRIPS & TOURS, INC., 1812 Greenvale Rd., Albany, GA 31707. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 737–1030. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165495, filed January 4, 1983. Applicant: LA GRANGE BUS COMPANY, 103 W. Washinton St., La Grange, NC 28551. Representative: Lee A Spinhs, 225 So. Franklin St., P.O. Drawer 153, Rocky Mount, NC 27801, (919) 977–2211. Transporting *passengers,* in charter and special operations, beginning and ending at points in NC and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165535, filed January 3, 1983. Applicant: MILES TO MINUTES TOURS, INC., 601 E. Tremont Ave., Bronx, NY 10457. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–025

Decided: January 17, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165577, filed January 7, 1983. Applicant: PREFERRED LIMOUSINES, INC., 1401 Industrial Hwy., Cinnaminson, NJ 08077. Representative: Richard W. Jones, III (same address as applicant), (609) 779–0100. Transporting *passengers,* in charter operations, beginning and ending at points in Burlington County, NJ, and extending to points in NJ, PA, NY, DE, MD, and DC.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165606, filed January 10, 1983. Applicant: EDWIN F. WILMARTH AND SONS, INC., d.b.a. ROSE TOURS, 718 Lanark Rd., Broad Channel, NY 11693. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10049, (212) 466–0220. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–027

Decided: January 18, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 153457 (Sub-2), filed January 11, 1983. Applicant: TEXAS U.S. TRUCKING, INC., 3061 Hardy St., Ft. Worth, TX 76106. Representative: Elizabeth McAdams (same address as applicant), (817) 625–4191. 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 HI).

MC 158647 (Sub-1), filed January 10, 1983. Applicant: HAVE GROUP WILL TRAVEL TOURS, INC., 680 E. Edgewood Dr., Appleton, WI 54911. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163816 (Sub-1), filed January 12, 1983. Applicant: AMERICAN INTERNATIONAL TRANSPORT, INC., 600 Absecon Blvd., Atlantic City, NJ 08401. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107, (215) 564–3380. 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 165628, filed January 11, 1983. Applicant: PAUL HORST, 950 Rabbit Hill Rd., Lititz, PA 17543. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. 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 165627, filed January 11, 1983. Applicant: OSORNO TOURS OPERATOR, INC., 23–27 91st St., East Elmhurst, NY 11369. 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 charter and special transportation.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–013

Decided: January 14, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 123748 (Sub-30), filed January 4, 1983. Applicant: CONNECTICUT LIMOUSINE SERVICE, INC., 1060 State Street, New Haven, CT 06511. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103, 203–278–1330. Transporting

passengers, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148098 (Sub-2), filed December 30, 1982. Applicant: CITIES TRANSIT, INC., 415 Ingraham Ave., P.O. Box 1553, Lakeland, FL 33802. Representative: M. Craig Massey, 1701 South Florida Ave., P.O. Drawer 2787, Dixieland Station, Lakeland, FL 33806–2787, 813–682–1178. Transporting *passengers*, in special operations, beginning and ending at points in FL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special transportation.

MC 152738 (Sub-3), filed January 6, 1983. Applicant: GLEN AIR LIMOUSINE SERVICE, INC., 1007 Maple Avenue, Glen Rock, NJ 07452. Representative: A. David Millner, P.O. Box 4, 7 Becker Farm Road, Roseland, NJ 07068, 201–992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165508, filed January 3, 1983. Applicant: STEVEN A. FAUST, Petersburg, NE 68652. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, 515–244–2329. 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 165529, filed January 6, 1983. Applicant: JAY ARLIE COOK, d.b.a. J. COOK & SON TRANSPORTATION, 2536 Patterson Road, Riverbank, CA 95367. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, 617–657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone, 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 165538, filed January 3, 1983. Applicant: BLUE STREAK TRANSPORTATION, INC., 7040 Edgefield Dr., New Orleans, LA 70128. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–017

Decided: January 17, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 135288 (Sub-9), filed January 6, 1983. Applicant: MCGILL'S TAXI AND BUS LINES, INC., d.b.a. ASHEBORO COACH CO., P.O. Box 5236, Greensboro, NC 27403. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth Street, NW., Washington, DC 20005, 202–296–5188. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 140318 (Sub-3), filed January 4, 1983. Applicant: HORNE STORAGE COMPANY, INC., P.O. Box 1744, Goldsboro, NC 27530. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. 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) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 140649 (Sub-2), filed January 7, 1983. Applicant: GREENLAWN TRANSIT LINE, INC., 1400 East Fifth Avenue, Columbus, OH 43219. Representative: Philip W. Schaeffing (same address as applicant), 614–224–8000. 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 162349, filed September 23, 1982. Initially published in the **Federal Register** on October 14, 1982. Applicant: AFFORDABLE TOURS, INC., Rt. 1, Box 189–A, Sauvies Island Rd., Portland, OR 97231. Representative: Dona L. Huson (same address as applicant), (503) 621–3185. Transporting *passengers*, in special and charter operations, beginning and ending at points in Clark County, WA, and extending to points in OR, NV, CA, AZ, UT, WY, CO, MT, ID, ND, SD, MN, TX, NM, OK, KS, and NE. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of Certificate No. MC–162349 issued December 27, 1982.

Note.—Applicant seeks to provide privately-funded charter transportation. This republication includes special operations and changes "Vancouver, WA" to "points in Clark County, WA."

MC 165408, filed December 30, 1982. Applicant: MID-SOUTH RICE SHIPPERS, INC., P.O. Box 5371, 1061 Raceway Rd., Greenville, MS 38701. Representative: Mary E. Ventura (same address as applicant) (601) 335–8281. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165558, filed January 7, 1983. Applicant: WEBB BUS LINES, LTD., 124 Duke Ave., Portage La Prairie, Manitoba, Canada R1N OS6. Representative: Todd W. Foss, 15 Broadway, Suite 502, Fargo, ND 58102, 701–235–4487. Transporting *passengers*, in charter and special operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada in AK, WA, ID, MT, ND, and MN, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165579, filed January 7, 1983. Applicant: SHERFIELD PRODUCE MARKETING, 9000 Keystone Crossing Office Center, Suite 950, Indianapolis, IN 46240. Representative: George M. Butterfield (same address as applicant), 317–844–0482. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2089 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers 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** 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 carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

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, water carrier dual operations, 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275-7992.

Volume No. OP1-21

Decided: January 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 13300 (Sub-96) filed January 5, 1983. Applicant: CAROLINA COACH COMPANY, d.b.a. CAROLINA TRAILWAYS, 1201 S. Blount St., P.O. Box 28066, Raleigh, NC 27611. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441. Over regular routes, transporting *passengers*, between DC, and Annapolis, MD, over U.S. Hwy 50, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 16961 (Sub-10), filed January 6, 1983. Applicant: HUTCHINS TRUCKING COMPANY, 1000 Congress Street, Portland, ME 04102. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101, (207) 773-5651. Transporting *such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, military commissaries and exchanges, restaurants, and hardware, discount drug and convenience stores, between points in ME, on the one hand, and, on the other, points in CT, MA, NH, NJ, NY, PA, RI and VT.

MC 33641 (Sub-168), filed January 6, 1983. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Breese, (same address applicant), (801) 972-7263. Transporting *classes A, B, and C explosives, blasting materials, and supplies, weapons, ammunition, and component parts of ammunition and explosives, and articles designated by the U.S. Government as sensitive*, between points in the U.S. (except AK and HI). CONDITION: To the extent that a certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall expire 5 years from its date of issuance.

MC 125681 (Sub-7), filed January 7, 1983. Applicant: MATERIALS TRANSPORT, INC., Box 248, 1405 9th St., Tell City, IN 47586. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639-4511. Transporting *gypsum*, between Joppa, IL, and points in Martin County, IN.

MC 152621 (Sub-15), filed January 4, 1983. Applicant: RUSH TRANSPORT, INC., 163 Main St., Route 131, Sturbridge, MA 01566. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781-8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156980, filed December 28, 1982. Applicant: N.H. SOUTHWEST TRUCKING, INC., Benson Shores, Box 384, Hampstead, NH 03077. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841,

(617) 657–6071. Transporting *electical components*, between points in the U.S. (except AK and HI), under continuing contract(s) with Unitrode Corp., of Lexington, MA.

MC 157691 (Sub-4), filed January 4, 1983. Applicant: BLUE VELVET TRANSPORT, INC., P.O. Box 9477, Canton, OH 44711. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215, (614) 464–4103. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 159220 (Sub-8), filed January 6, 1983. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara St., Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Packerland Packing Co., Inc., of Green Bay, WI.

MC 161731 (Sub-1), filed January 4, 1983. Applicant: ANTHONY M. BRIDA, INC., R.D. #1 Box 415, Glassboro, NJ 08028. Representative: Anthony M. Brida (same address as applicant), (609) 881–1700. Transporting *natural and imitation stone and stone products*, between points in the U.S., under continuing contract(s) with Delsea Stone Corporation, of Clayton, NJ.

MC 163740, filed December 28, 1982. Applicant: 1843–7475 QUEBEC INC., 270 St. Jacques South, Coaticook, P.Q. Canada J1A 2N9. Representative: Adrien R. Paquette, 200 St. James St., Room 900, Montreal, Quebec, Canada H2Y 1M1, (514) 842–1864. Transporting *lumber*, between ports of entry on the international boundary line between the U.S. and Canada at points in VT, and Franklin, St. Lawrence and Clinton Counties, NY, on the one hand, and, on the other, points in ME, NH, MA, VT, CT, RI, NY, and NJ.

MC 165561, filed January 6, 1983. Applicant: DOROTHY SHAMROCK COAL COMPANY, INC., 2112 Northwestern Ave., Indianapolis, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *coal*, between points in the U.S. (except AK and HI), under continuing contract(s) with Dorothy Coal Sales, Inc., of Loveland, OH.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP–026

Decided: January 18, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36517 (Sub-12), filed January 10, 1983. Applicant: JAMES J. KEATING, INC., P.O. Box 830; Perth Amboy, NJ 08862. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *commodities in bulk*, between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 152046 (Sub-1), filed January 11, 1983. Applicant: HOLMER TRUCKING, RR No. 2, Park Rapids, MN 56470. Representative: Jerry Holmer (same address as applicant), (218) 573–3333. Transporting *lumber, wood products* and *building materials*, between points in OR, WA, ID, MT, ND, SD, MN, and WI.

MC 153416 (Sub-2), filed January 10, 1983. Applicant: ACCORD SERVICES, INC., 301 S. 5th St., Kansas City, KS 66110. Representative: Alex M. Lewandowski, 1221 Baltimore Ave. Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Intermodal Marketing, Inc., of Kansas City, KS.

MC 154106 (Sub-4), filed January 12, 1983. Applicant: MT. HOPE TRUCKING, INC., P.O. Box 247, Mt. Hope, KS 67108. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612, (913) 233–9629. Transporting *food and related products*, between points in CO, KS, MN, MO, NE, TX, WY, LA, IL, and IA, on the one hand, and, on the other, points in the U.S. (except AK, HI, WA, OR, ID, NV, NY, NJ, MD, VT, NH, MA, and ME).

MC 158366 (Sub-2), filed January 10, 1983. Applicant: GUY A. GRANGER, d.b.a. GRANGER TRUCKING CO., 10203 64th Ave. S., Seattle, WA 98178. Representative: Guy A. Granger (same address as applicant), (206) 725–0554. Transporting *lumber and wood products*, between points in Grays Harbor County, WA, on the one hand, and, on the other, points in NC and TN.

MC 163717, filed January 11, 1983. Applicant: C & D TRANSPORTATION, INC., P.O. Box 334, Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting, *paper and paper products, plastic products*, and *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with American Metal Moulding, Inc., of Edison, NJ.

MC 165316, filed January 10, 1983. Applicant: JOE CUTRONA'S QUALITY CARS, INC., 6878 Transit Rd., Williamsville, NY 14221. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043, (716) 681–7190. Transporting, *used cars*, between points in NY, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

Volume No. OP4–027

Decided: January 20, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 128927 (Sub-13), filed October 13, 1982, previously noticed in the **Federal Register** issue of November 1, 1982, and republished herein. Applicant: MARTIN TRUCKING CO., INC., Box 406, Tomah, WI 54660. Representative: James A. Spiegel, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting, *food and related products*, between points in MN and WI, on the one hand, and, on the other, points in IA, IL, IN, KY, MN, MO, OH and TN.

Note.—This republication reflects the addition of OH which was inadvertently omitted from the earlier notice.

For the following, please direct status inquiries to Team 5 (202) 275–7289.

Volume No. OP5–016

Decided: January 17, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 79658 (Sub-44), filed January 7, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting, *house goods*, between points in the U.S., under continuing contract(s) with Nabisco Brands, Inc., East of Hanover, NJ.

MC 102379 (Sub-3), filed December 30, 1982. Applicant: LUTHER McGILL, INCORPORATED, P.O. Box 785, Laurel, MS 39440. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, 601–948–5711. Transporting, (1) *Mercer commodities*, between points in AR, OK, and TN; and (2) between points in AR, OK, and TN, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, and TX.

MC 116509 (Sub-3), filed January 10, 1983. Applicant: FOOD PRODUCTS REFRIGERATED EXPRESS, INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201)

234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 125079 (Sub-5), filed January 4, 1983. Applicant: CLAY TRANSPORT, INC., 2400 Greensburg Rd., New Kensington, PA 15068. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting (1) *Coal and coal products*, (2) *ores and minerals*, (3) *building materials*, (4) *clay, concrete, glass or stone products*, (5) *metal products*, and (6) *machinery*, between points in PA, OH, and WV, on the one hand, and, on the other, points in PA, OH, WV, NY, IL, IN, MI, MD, NJ, DE, VA, and KY.

MC 125168 (Sub-30), filed January 7, 1983. Applicant: OIL TANK LINES, INC., Box 190, Darby, PA 19023. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *petroleum, natural gas and their products*, between points in the U.S., under continuing contract(s) with Sun Refining and Marketing Company, of Philadelphia, PA.

MC 128409 (Sub-12), filed January 7, 1983. Applicant: HAROLD MILLER TRUCKING, INC., P.O. Box 623, Moorhead, MN 56560. Representative: Richard P. Anderson, Federal Square, 112 Roberts Street, P.O. Box 2581, Fargo, ND 58108, 701–235–3300. Transporting *food and related products*, between points in ND, SD, and MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157809 (Sub-2), filed January 5, 1983. Applicant: JOHN LAHOTSKI, STEPHEN LAHOTSKI, WILLIAM LAHOTSKI AND PAUL LAHOTSKI, d.b.a., BLUE AND WHITE TRUCKING, 181 Phillips St., Throop, PA 18512. Representative: Raymond Talipshi, 121 S. Main St., Taylor, PA 18517, 717–344–8030. Transporting (1) *coal and coal products*, between points in Luzerne, Schuykill and Northumberland Counties, PA, on the one hand, and, on the other, points in NY, NJ and CT, (2) *food and related products*, (a) between points in Onondago County, NY, on the one hand, and, on the other, points in Luzerne County, PA, and (b) between points in Monroe County, NY, Baltimore County, MD and Philadelphia County, PA, on the one hand, and, on the other, points in Lackawanna County, PA.

MC 159659 (Sub-2), filed December 30, 1982. Applicant: J WAY STERILE SERVICE, INC., 639 Ramsey Avenue, Hillside, NJ 07205. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Allstates Air Cargo, Inc., of Newark, NJ and Hartford Corporation, Oxford Division, of New Brunswick, NJ, (2) *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Manufacturers Reserve Supply, Inc., of Irvington, NJ, and (3) *instruments and photographic goods*, between points in the U.S. (except AK and HI) under continuing contract(s) with Terumo Medical Corporation of Elkton, MD.

MC 160328, filed January 5, 1983. Applicant: JUNTTI MOVING & DELIVERY, 3616 Scheffer Drive, Lansing, MI 48906. Representative: David D. Bone, 2940 Lake Lansing Road, East Lansing, MI 48823, 517–351–2436. Transporting *household appliances* between Lansing, MI, on the one hand, and, on the other, points in Ingham, Eaton, Ionia, Clinton, Shiawassee, Livingston, Jackson, Calhoun, Washtenaw, Gratiot and Barry Counties, MI, under continuing contract(s) with General Electric Company, of Louisville, KY.

MC 165398, filed December 29, 1982. Applicant: M & J CARRIERS, INC., RR #1, Box 111A, Oakley, IL 62552. Representative: James E. Ashby (same address as applicant), 217–763–2111. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165489, filed January 4, 1983. Applicant: TALLEY TRUCKING CO., INC., P.O. Box 9029, 7127 Kirkpatrick Blvd., Houston, TX 77011. Representative: Delmas W. Heinke, 11510 Corkwood, Houston, TX 77089, 713–481–2254. Transporting *clay, concrete, glass or stone products*, and *ores and minerals*, between points in TX, OK, MO, AR, LA, MS, and AL.

MC 165528, filed January 5, 1983. Applicant: DICKERSON TRUCKING, LTD., Route 2, Box 347, Axton, VA 24054. Representative: Franklin J. Dickerson (same address as applicant), 804–724–4226. Transporting *furniture and fixtures*, between points in Henry and Smyth Counties, VA on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with American Furniture Co., Inc., of Martinsville, VA.

MC 165548, filed January 6, 1983. Applicant: AMERICAN ASPHALT PRODUCTS, INC., 2382 Boston Road, Wilbraham, MA 01095. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, 617–742–3530. Transporting *petroleum products*, between points in ME, NH, VT, MA, RI, CT, NY, NJ, and PA.

Volume No. OP5–012

Decided: January 14, 1983.

By the Commission, Review Board No. 3. Members Krock, Joyce, and Dowell.

FF–648, filed January 4, 1983. Applicant: AUTO MOVERS, INCORPORATED, 13090 Park St., Santa Fe Springs, CA 90670. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, DC 20006, (202) 833–8884. To operate as a *freight forwarder* of *transportation equipment* between points in the U.S.

MC 87128 (Sub-3), filed December 29, 1982. Applicant: WHERLEY MOVING & STORAGE CO., INC., 2793 Miller Trunk Hwy., Duluth, MN 55810. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods* between points in ND, SD, NE, KS, MO, IA, MN, WI, MI, OH, IN, IL, CO, WY, TX, OK, AR, and LA, on the one hand, and, on the other, points in the U.S. (except WA, OR, and CA).

MC 96889 (Sub-4), filed January 4, 1983. Applicant: E–B TRUCKING COMPANY, INCORPORATED, Hwy. 301 North, P.O. Box 518, Battleboro, NC 27809. Representative: E. Lisk Everette (same address as applicant), (919) 977–2547. Transporting *materials, equipment, and supplies* used in the processing and distribution of unmanufactured tobacco between points in FL, GA, KY, NC, SC, TN, and VA.

MC 99589 (Sub-2), filed January 4, 1983. Applicant: MADDUX & SONS, INC., 1927 Pan American Ave., P.O. Box 1077, Douglas, AZ 85607. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *such commodities* as are produced from mines, mills, and quarries, between El Paso, TX, and points in AZ and NM.

MC 121259 (Sub-4), filed January 4, 1983. Applicant: JAY-BEE CARTAGE CO., INC., 1514 S. Canel St., Chicago, IL 60607. Representative: Walter L. Weart, Suite 423, 2234 S. Goebbert Rd., Arlington Heights, IL 60005, 302–520–0507. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except ND, SD, MT, WY, ID, OR, WA, AK and HI).

MC 154108 (Sub-3), filed December 27, 1982. Applicant: CALHOUN TRANSPORTATION SERVICE, INC., Old Route 11, P.O. Box 10, Calhoun, TN 37309. Representative: M. C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, (615) 756–3620. Transporting *general commodities* (except classes A and B explosives, households goods, and commodities in bulk), between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 158818 (Sub-1), filed December 30, 1982. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M, Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave. N, Billings, MT 59101, (406) 252–4165. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MT, on the one hand, and, on the other, points in ND, SD, MN, WI, IL, IA, NE, KS, OK, MO, TX, CO, WY, CA, AZ, NM, IN, OH, MI, OR, WA, UT, AR, ID, AL, GA, NV and LA.

MC 165039, filed December 23, 1982. Applicant: CFI TRANSPORT, INC., P.O. Box 40, Valdese, NC 28690. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *pet foods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sunshine Feed Mills, Inc., of Red Bay, AL and Sunshine Mills, Inc., of Tupelo, MS.

MC 165388, filed December 28, 1982. Applicant: RONSON LEASING, INC., Rear of 11 Ridge Rd., Lyndhurst, NJ 07071. Representative: John W. Metzger, 49 N. Duke St., Lancaster, PA 17602, (717) 299–1181. Transporting (1) *food and related products*, between St. Louis, MO, Chicago, IL, Detroit, MI, Denver, CO, New York, NY, Los Angeles, CA, and points in Morgan and Logan Counties, CO, on the one hand, and, on the other, points in the U.S., (except AK and HI), (2) *chemicals and related products*, between St. Louis, MO, Chicago, IL, and Detroit, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *such commodities* as are dealt in or used by manufacturers of noise control equipment, between Atlanta, GA, New York, NY, and points in Columbia and Luzerne Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *rubber and plastic products, building materials, and small arms and small arms ammunition*, between Chicago, IL, New York, NY and points in Luzerne County, PA and Bergen County, MJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165518, filed January 6, 1983. Applicant: JETCO SERVICE COMPANY, 16910 Dallas Parkway, Suite 108, Dallas, TX 75248. Representative: Wayland Little, 617 Medina Dr., Lewisville, TX 75067, 214–436–8493. Transporting *clay products* between points in Thomas County, GA and Tippah County, MS, on the one hand, and, on the other, points in AR, LA, MS, OK, and TX.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2080 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F. 233

The following applications were filed in region 4: Send Protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 110988 (Sub-No. 4–53TA), filed January 13, 1983. Applicant: SCHNEIDER TANK LINES, INC., P.O. Box 117, Appleton, WI 54912. Representative: Thomas E. Vandenberg, P.O. Box 2298, Green Bay, WI 54306. *General Commodities* between points in the United States, under continuing contract(s) with Foremost-McKesson, Inc. and its subsidiaries and affiliates. Supporting shipper: Foremost-McKesson, Inc., One Post Street, San Francisco, CA 94104.

MC 125681 (Sub-4–1TA), filed January 12, 1983. Applicant: Materials Transport, Inc., Box 248, 1405 9th St., Tell City, IN 47586. Representative: Warren C. Moberly, HARRISON & MOBERLY, 777 Chamber of Commerce Bldg., Indianpolis, IN 46204. Gypsum, from Martin County, IN to Joppa, IL (part of St. Louis, MO, commercial zone). Supporting Shipper: Missouri Portland Cement Company, 7711 Carondelet Ave., St. Louis MO 63105.

No. MC 144452 (Sub-No. 4–6), filed January 13, 1983. Applicant: ARLEN E. LINDQUIST, dba. ARLEN E. LINDQUIST TRUCKING, 9172 Davenport Street NE., Minneapolis, MN 55434. Representative: William J. Gambucci, 525 Lumber Exchange Building, Ten South Fifth Street, Minneapolis, MN 55402. *Petroleum products* from Tulsa, OK to points in WI and MT. Supporting shipper: John Deere Company, Deere & Company, John Deere Rd., Moline, IL 61265.

MC 152257 (Sub-4–5TA), filed January 13, 1983. Applicant: LORDCO TRUCKING, INC., 535–F Tollgate Road, Elgin, IL 60120. Representative: Paul J. Maton, 27 E. Monroe St., Suite 1000, Chicago, IL 60603, (312) 332–0905. *Contract:* irregular: such commodities as are dealt in or used by manufacturers or distributors of containers between La Crosse, WI, Chicago, IL, Belleville, IL, Evansville, IN, Madison, IL and Granite City, IL under continuing contract(s) with National Can Corporation of Chicago, IL.

MC 165668 (Sub-4–1TA), filed January 13, 1983. Applicant: WAUSAU CARRIERS, INC., P.O. Box 398, Wausau, WI 54401, 715/359–3497. Representative: Robert A. Wagman, P.O. Box 398, Wausau, WI 54401, 715/359–3497. *Contract carrier:* irregular routes: *General commodities* (except classes A

and B explosives, household goods, and commodities in bulk) between points in Lincoln and Marathon Counties, WI and points in the U.S., excluding AK and HI, under continuing contract(s) with the J.I. Case Company of Racine, WI. Supporting shipper: J.I. Case Company, 700 State Street, Racine, WI 53404.

MC 156707 (Sub-4–3TA), filed January 12, 1983. Applicant: MWK TRANSPORT CO., INC., 5401 West Donges Bay Road, Mequon, WI 53092. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *contract* carrier, over *irregular* routes, transporting: *Floor covering products* from points in Walker, Catoosa, Whitfield, Chatooga, Floyd, Bartow, Cherokee, Gordon, Pickens, Murray, Gilmer and Fannin Counties, GA to Chicago, IL, Milwaukee, WI, Minneapolis-St. Paul, MN and points in their respective commercial zones, under continuing contract(s) with Carson, Pirie, Scott & Company. Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Carson, Pirie, Scott & Company, 13–127 Merchandise Mart, Chicago, Il 60654.

MC 162610 (Sub-4–10TA), filed January 13, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th St., Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. *Contract: irregular: Such commodities* as are dealt in by manufacturers and distributors of material handling equipment, from LaGrange, IL to points in the U.S. (except AK and HI), under continuing contract(s) with Crown Controls, d.b.a. Crown Lift Trucks of LaGrange, IL. Supporting shipper: Crown Controls, d.b.a. Crown Lift Trucks, 5436–5444 Dansher Road, LaGrange, IL 60525.

MC 162610 (Sub-4–11TA), filed January 14, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th St., Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. *Contract: irregular: Such commodities* as are dealt in by manufacturers and distributors of automotive exhaust systems, between Chicago, IL and Haleyville, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Grand Exhaust Systems, Inc. of Chicago, IL. Supporting shipper: Grand Exhaust Systems, Inc., 5310 W. 66th St., Chicago, IL 60638.

MC 163052 (Sub-4–2TA), filed January 12, 1983. Applicant: ALBERT R. MATHEY AND FRANCIS E. MATHEY, d.b.a. AM/FM TRUCKING, 650 Edward Street, Sycamore, IL 60178. Representative: Stephen H. Loeb, 2777 Finley Road, Suite 4, Downers Grove, IL 60515. *Contract, Irregular: Washers, gaskets or packing devices, catalogs, and cartons,* between the facilities of CR Industries at Elgin, IL, and Memphis, TN, under contract with CR Industries. Supporting shipper: CR Industries, 900 N State St., Elgin, IL 60120.

MC 165297 (Sub-4–1), filed January 13, 1983. Applicant: AUTO WHOLESALERS & TRANSPORT, INC., 965 County Road 18 North, Plymouth, MN 55441. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Motor Vehicles,* between points in AK, CO, IL, IA, LA, MN, MS, MO, MT, NE, ND, OK, SD, TX, WI and WY. Supporting shippers: Agency Rent A Car, Minneapolis, MN; C & D Auto Sales, Plymouth, MN; Knott Motors, Hopkins, MN; Maas Motors, Inc., Plymouth, MN; Minneapolis Auto Auction, Plymouth, MN.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 96878 (Sub-5–8TA), filed January 17, 1983. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney, North Kansas City, MO 64116. Representative: Alfred L. King, same as above. *Plastic and paper articles* between Kansas City commercial zone and points in the U.S. (except AK and HI). Supporting shippers: Tension Envelope Corp., Kansas City, MO, Mar-Kay Plastics, Inc., Kansas City, MO; and Plastic Enterprises Co., Inc., Independence, MO.

MC 119765 (Sub-5–5TA), filed January 17, 1983. Applicant: EIGHT WAY EXPRESS, INC., 10855 West Dodge Road, Omaha, NE 68154. Representative: Floyd Foreman (same as applicant). (1) *Plastic and Plastic Products;* (2) *Food and related Products;* (3) Animal health products; and (4) Chemicals between IA and NE, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shippers: ABS Corp., Omaha, NE; Mid America Industries, Inc., Mead, NE; and FDL Foods, Inc., Dubuque, IA.

MC 135399 (Sub-5–7TA), filed January 17, 1983. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104. *Such commodities as are dealt in or used by foundries and industrial mills,* between TX, LA and AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Custom Outlets, Houston, TX; Morrow Crane Company, Houston, TX; Universal Alloy, Valve and Fitting Co., Houston, TX and Adams Industries, Inc., Monroe, LA

MC 144982 (Sub-5–16TA), filed January 18, 1983. Applicant: OHIO PACIFIC EXPRESS, INC., P.O. Box 277, Benton, MO 63736. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Such Commodities as are dealt in or used by manufacturers and distributors of paint, chemicals, and related products,* from Dayton, OH and Richmond, KY to Reno, NV. Supporting shipper: The Sherwin-Williams Co., Cleveland, OH.

MC 150093 (Sub-5–7TA), filed January 17, 1983. Applicant: THE TOM DAVIS CORP., d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, Iowa 50111, Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Wines and liquors, between points in IA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Iowa Beer and Liquor Control Department, Ankeny, Iowa 50021.

MC 151065 (Sub-5–3TA), filed January 17, 1983. Applicant: KANSAS CITY PIGGYBACK, INC., 3600 Great Midwest Drive, Kansas City, MO 64161, Representative: Donald J. Quinn, Commerce Bank Bldg., Suite 232, 8901 State Line, Kansas City, Missouri 64114. *General commodities, with the usual exceptions,* between Springfield, MO on the one hand, and, on the other, points in AR, IA, KS, MO, NE, OK and the St. Louis commercial zone. Supporting shippers: 5.

MC 159193 (Sub-5–2TA), filed January 17, 1983. Applicant: VAUGHN TRUCKING, INC., P.O. Box 127, Jonesboro, AR 72401. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Ste. 909, Memphis, TN 38103. Contract; Irregular. *General commodities (except Classes A and B explosives, household goods, and commodities in bulk* between Memphis, TN, and its commerical zone, and Shelby County, TN, on the one hand, and, on the other, points in the US (excluding AK and HI), under a continuing contract(s) with U.S. Freight Forwarder Co., Inc. Supporting shipper: U.S. Freight Forwarder Co., Inc., Memphis, TN.

MC 164017 (Sub-5–2TA), filed January 18, 1983. Applicant: HOUSBY FREIGHT

SYSTEMS CORP., 4733 NE 14th Street, Des Moines, IA. Representative: Charles A. Coppola, 4900 University Avenue, Suite 101, Des Moines, IA. *(1) Food and related products, (2) Paper and paper products, (3) such commodities as are dealt in by Farm and Home Supply stores, (4) vending machines, and (5) Materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) through (4).* Between points in Polk County, IA on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: 7.

MC 164072 (Sub-5–4TA), filed January 17, 1983. Applicant: WINGS TRANSPORTATION, INC., 717 South 9th Street, Omaha, NE 68102. Representative: Debra Merritt (same as above). (1) *Food and Related Products,* between Cedar Rapids, IA and Chicago, IL and its commercial zone. (2) Adhesives and coatings, between Ogden, UT, on the one hand, and, on the other, points in the U.S.; and (3) Materials and supplies used in the manufacture and distribution of the commodities in (1) and (2) above, between points of origin and destinations as listed in (1) and (2) above. Supporting shippers: Penick & Ford, Cedar Rapids, IA; Swift Adhesives & Coatings, Ogden, Utah.

MC 165714 (Sub-5–1TA), filed January 17, 1983. Applicant: GREENWOOD TRUCKING SERVICES, INC., P.O. Box 59601, Dallas, TX 75229. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *General Commodities (except classes A and B explosives or hazardous materials)* between Dallas and Tarrant Counties, TX on the one hand, and, on the other, points in LA, OK and TX. Restricted to shipments having a prior or subsequent movement by rail or water transportation. Supporting shippers: There are five (5) supporting shippers.

MC 164366 (Sub-5–1TA), filed January 18, 1983. Applicant: AFFILIATED VAN LINES, INC., 2121 Washington St., Box 209, Lawton, OK 93502. Representative: Charles J. Kimball, 1600 Sherman St., No. 665, Denver, CO 80203. *Contract* irregular *household goods, as defined by the Commission,* between points in the U.S. (except AK and HI), under a continuing contract or contracts with Northrop WorldWide Aircraft Service, Inc.

MC 164366 (Sub-5–2TA), filed January 18, 1983. Applicant: AFFILIATED VAN LINES, INC., 2121 Washington St., Box 209, Lawton, OK 93502. Representative: Charles J. Kimball, 1600 Sherman St., No. 665, Denver, CO 80203. *Contract* irregular *household goods, as defined by the Commission,* between points in the U.S. (except AK and HI), under a continuing contract or contracts with Herb's Discount, Inc.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-2091 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-150]

Minority Participation in the Motor Carrier Industry

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed update to list of minority and female owned carriers.

SUMMARY: The ICC is updating its listing of minority and female owned motor carriers in interstate regulated trucking. This will allow the Commission to carry out its responsibility mandated by the Motor Carrier Act of 1980 to monitor the level of participation of minority carriers in the transportation industry. In addition, this information is available to Congress and other agencies to help them design and deliver programs that address the specific needs of women and minorities.

The Commission is mailing out questionnaires to all carriers receiving operating authority since our last study was conducted. We are also contacting carriers on our current listing for verification of status.

For purposes of definition, a firm is female or minority owned if a female(s) or a member(s) of a minority group owns *more* than 50 percent of the company's stock. Carriers meeting this definition should contact the Commission to ensure inclusion in our listings.

DATE: New listings of minority and female owned carriers will be published March 1, 1983.

ADDRESS: Carrier name, address, and minority type should be sent to: Interstate Commerce Commission, Room 4119, Washington, DC 20423, Attention: Emily A. White.

FOR FURTHER INFORMATION CONTACT: Leland L. Gardner, (202) 275–0811 or Emily A. White, (202) 275–0788.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2081 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[OP3-MC-F-19]

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.**

Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action

under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: January 18, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

James H. Bayne,

Acting Secretary.

Note.—Please direct status inquiries to Team 3 (202) 275-5223.

MC-F-15065, filed January 4, 1983. ROBERT J. LEHMAN, (ROBERT), (P.O. Box P, Elyria, OH)—Continuance in Control—ZONE TRANSPORTATION COMPANY (ZONE)—Initial Common Carrier (P.O. Box 1379, Elyria, OH). Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. ROBERT seeks authority to continue in control of ZONE upon the institution by ZONE of operations in interstate or foreign commerce, as a motor common carrier. ZONE has filed an application in No. MC-165504 seeking authority to transport over irregular routes, general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MI, MO, NY, OH, PA, WV, and WI. ROBERT presently holds no permanent authority from the Commission, however, ROBERT also controls through stock ownership Lehman Cartage, Inc., a motor common carrier pursuant to Certificate issued in MC-7573 and Subs thereunder.

Note.—ZONE has filed a directly-related application in its initial common carrier permanent application. This application, docketed No. MC-165504 is published in this same **Federal Register** issue.

MC 165504, filed January 5, 1983. Applicant: ZONE TRANSPORTATION COMPANY, P.O. Box 1379, Elyria, OH 44035. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MI, MO, NY, OH, PA, WV, and WI.

Note.—This application is directly related to MC-F-15065, published in this same **Federal Register** issue.

[FR Doc. 83-2007 Filed 1-25-83; 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 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will recieve an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

James H. Bayne,

Acting Secretary.

MC-FC-79716 (Supplemental Publication). By decision of November 23, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to ISADORE SPIEGEL, d.b.a. SPIEGEL TRUCKING CO., of Harrison, NJ, of Permit Nos. MC-125770. (Sub-Nos. 1, 10, 13, and 15), issued to SPIEGEL TRUCKING, INC., also of Harrison, NJ, which authorized the transportation of (1) *steel office furniture and equipment*, from Newark, NJ, to Baltimore, MD, Savannah, Albany, and Dorsaga, GA, Shelby, OH, Chicago, IL, Boston and Hingham, MA, Philadelphia, PA, and DC, under continuing contract(s) with Hillside Metal Products, Inc., of Newark, NJ; (2) *furniture parts and materials* used in the manufacture of office and library furniture (except in bulk in tank vehicles), between points in PA and Newark, NJ, on the one hand, and, on the other, points in CT, FL, GA, IL, IN, MA, MD, NY, NC, RI, OH, SC, TN, and VA, under continuing contract(s) with Art Metal-U.S.A., Inc./Steel Sales, Inc.; (3) *empty containers, trailers, and chassis*, between New York, NY, Newark, NJ, Philadelphia, PA, Baltimore, MD, Norfolk, VA, and Boston, MA, under continuing contract(s) with Container Transport International, Inc., of New York, NY; and (4) *parts and materials* used in the manufacture of furniture, from points in CT, GA, IL, MD, MA, NY, NC, OH, PA, VA, and SC, to the facilities of Art Metal-U.S.A. Inc., at Newark, NJ, under continuing contract(s) with Art Metal-U.S.A. Inc., of Newark, NJ. Applicants' representative: Harold L. Reckson, 33-28 Halsey Road, Fairlawn, NJ 07410.

Note.—The purpose of this supplemental publication is to give notice of additional authority approved for transfer in this proceeding. We previsously approved the transfer of Permit No. MC-125770 (Sub-No. 8), on May 7, 1982, notice of which appeared in the **Federal Register** on May 20, 1982 and June 15, 1982.

MC-FC-79874. By decision of August 23, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3, modified its prior decision published July 12, 1982, and approved the transfer to S.T.C. TRUCKING CO., INC., of Corringanville, MD of Certificae No. MC-154569 (Sub-

No. 4), issued to LEYDIG TRUCKING INC., of Corringanville, MD authorizing Coal, between points in VA, on the one hand, and, on the other, points in PA, MD, and WV. Applicant's Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740.

Note.—TA lease is sought. Transferee is not a carrier.

[FR Doc. 83-2086 Filed 1-25-83; 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 approval 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.

James H. Bayne,

Acting Secretary.

Note.—Please direct status inquiries to Team 1 at 202-275-7992.

Volume No. OP1-FC-28

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81069. By decision January 19, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to RALPH SPARACINO, d.b.a. SPARACINO BROTHERS, Scranton, PA, of certificate No. MC-74460 issued December 13, 1966, to FRANTZ TRANSFER, INC., Trucksville, PA, authorizing the transportation of *general commodities* (with the usual exceptions), between Wilkes-Barre, PA, and points within 10 miles of Wilkes-Barre, and *butter, eggs, meat and packinghouses products*, between Wilkes-Barre and Scranton, PA, on the one hand and, on the other, Binghamton, Johnson City, Endicott, and Narrowsburg, NY, and points in PA within 80 miles of Wilkes-Barre. Transferee is a carrier holding authority under No. MC-7585. Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517.

Volume No. OP1-FC-29

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 81078. By decision of January 19, 1983, issued under 49 U.S.C. 10931-10932 and the transfer rules at 49 CFR 1181, Review Board Number 1 approved the lease for a period of 1 year, to Ryan Services, Inc., of El Campo, TX, of Certificate of Registration No. MC-99850 (Sub-No. 2), issued February 9, 1976, to Texas Steel Culvert Co., Inc., of Arlington, TX, authorizing the transportation of specified commodities, between points in TX. Applicant's representative: M. Ward Bailey, 2416 Continental Life Bldg., Fort Worth, TX 76102.

[FR Doc. 83-2085 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15025]

Motor Carriers; Convoy Express, Inc.—Control Exemption—Associated Transports, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97-261 (September 20, 1982), Convoy Express, Inc. (Express), Auto Convoy Co. (Convoy), LeRoy L. Wade & Son, Inc. (Wade), and Associated Transports, Inc. (Associated), seek an exemption from the provisions of 49 U.S.C. 11343 to enable Express, a non-carrier wholly owned by Convoy, a motor common carrier (No. MC 59531), to acquire control of Associated, a motor common carrier (No. MC 30378), which is presently owned by Wade, also a motor common carrier (No. MC 108375).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013

Comments should refer to No. MC-F-15025.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7549.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petition's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-2096 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15060]

Motor Carriers; Matson Truck Lines, Inc.—Merger Exemption—Shurson Trucking Company, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 *Fed. Reg.* 53303 (November 24, 1982), Matson Truck Lines, Inc. (Matson) (No. MC 105007), Shurson Trucking Company, Inc. (Shurson) (No. MC 143739), and the five individuals in control of Matson and Shurson (Darryl E. Matson, Richard D. Matson, Quentin E. Matson, Gregory F. Matson, and Dale E. Matson), seek an exemption from the requirement under section 11343 of prior regulatory approval for the merger of Shurson into Matson for management, control and operation.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Val M. Higgins, Mackall, Crounse & Moore, 1600 TCF Tower, Minneopolis, MN 55402

Comments should refer to No. MC–F–15060.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2095 Filed 1–25–83; 8:45 am]

BILLING CODE —M

[No. MC–F–15052]

Motor Carriers; Richard R. Ruehle—Continuance In Control Exemption—Titan Transportation, Inc., and Findlay Truck Line, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions filed by Motor Carriers of Property under 49 U.S.C. 11343,* 47 Fed. Reg. 53303 (November 24, 1982), Richard R. Ruehle seeks an exemption from the requirement under section 11343 of prior regulatory approval for his continuance in control of motor carriers Findlay Truck Line, Inc. (No. MC 120378), of Findlay, OH, and Titan Transportation, Inc., also of Findlay, OH, when the latter becomes a certificated carrier in No. MC 162951 (Sub-No. 1).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Philip B. Cochran, 50 West Broad Street, Columbus, OH 43215

Comments should refer to No. MC–F–15052.

FOR FURTHER INFORMATION CONTACT: Joyce Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 19, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2094 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–1–M

[No. MC–F–15053]

Motor Carriers; Jem Trucking, Inc.—Purchase Exemption—Tom Miller Trucking Company, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures—Handling Exemptions Filed by Motor Carriers,* 367 I.C.C. 113 (1982), JEM Trucking, Inc. (JEM) (MC 144999) and Tom Miller Trucking Company, Inc. (Miller) (MC 160275) seek an exemption from the requirements of prior regulatory approval for the purchase by JEM of all of Miller's operating rights. In addition, temporary authority is sought for JEM to lease Miller's operating rights pending disposition of the petition for exemption.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and

(2) Petitioner's representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064

Comments should refer to No. MC–F–15053.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 20, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2092 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15082]

Motor Carriers; Howard A. Wells, Jr., et al.—Continuation In Control Exemption—Western Cargo, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemption Filed by Motor Carriers,* 367 I.C.C. 113 (1982), Howard A. Wells, Jr., James M. Wells, and Terry L. Wells, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Western Cargo, Inc. [No. MC 148980 (Sub-No. 2)]. The Wells also have a beneficial interest in Wells Cargo, Inc. (No. MC 43269). As Western Cargo, Inc., currently holds no authority from this Commission, an exemption would be granted only if Western Cargo's pending Sub-No. 2 application is granted.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Royal F. Miller, Western Cargo, Inc., P.O. Box 20489, Reno, NV 89515

Comments should refer to No. MC–F–15082.

FOR FURTHER INFORMATION CONTACT: Joyce Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 19, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne

Acting Secretary.

[FR Doc. 83-2060 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 324]

Motor Carriers; Permanent Authority Decisions Restriction Removals; Decision-Notice

Decided: Janury 3, 1983.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 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 issed authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board Number 2. Members Carlton, Williams, and Ewing.

James H. Bayne,

Acting Secretary.

MC 3600 (Sub-No. 13)X, filed November 23, 1982. Applicant: FRANK MARTZ COACH COMPANY, P.O. Box 1007, Wilkes-Barre, PA 18702. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, D.C. 20036. Lead and Subs 1, 3, 4, 5, and 7 certificates: (A) Remove (1) intermediate point restriction prohibiting the transportation of traffic between New York, NY and intermediate points in Hudson and Essex Counties, NJ, lead; and (b) service at intermediate points limited to traffic originating at or destined to points beyond New York, NY and Newark, NJ, Sub 1; and (2) restriction against the transportation of passengers, baggage, express , or newspapers to or from New York, NY, which are either picked up or discharged east of the junction U.S. Highway 22 and New Jersey Highway 28 in Bridgewater Township, NJ, Sub 7, which precludes the unfettered transportation of passengers, baggage, express or newspapers to or from intermediate points on routes, which are east of junction Hwys 22 and 28; and (B) authorize passenger carrier service at all intermediate points along the described (1) regular routes, Sub 1; and (2) alternate routes, Subs 3, 4, 5 and 7.

[FR Doc. 83-2068 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 129)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Mills County, Ia; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 9.41 mile rail line between Hastings (milepost 0.33) and Henderson (milepost 9.74), in Mills, County, IA. 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 served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10-days from publication of this Notice. 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 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2064 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30081]

Rail Carriers; Southern Railway Company—Abandonment Exemption—Iredell County, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by the Southern Railway Company of 9.7 miles of line in Iredell County, NC, subject to standard labor protection provisions.

DATES: This exemption shall be effective on February 25, 1983. Petitions to stay the effectiveness of this decision must be filed by February 7, 1983, and petitions for reconsideration must be filed by February 15, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representatives: Nancy S. Fleischman, Southern Railway Company, P.O. Box 1808, Washington, D.C. 20013

Pleadings should refer to Finance Docket No. 30081.

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 contact:

TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area

Decided: January 18, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2062 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-25]

Registration Application; Joseph A. Bonaccorsi, M.D.

On September 15, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) directed to Joseph A. Bonaccorsi, M.D. (Respondent), an Order to Show Cause seeking to deny the application for DEA registration Respondent executed on October 22, 1981. The statutory ground for denial, under 21 U.S.C. 824(a)(2), was Respondent's conviction on January 4, 1977 in the Superior Court of New

Jersey. Cumberland County Court, Law Division of felony offenses relating to controlled substances.

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. In lieu of a hearing on the issues, Respondent and DEA entered into an agreement. The Administrative Law Judge accepted the agreement and terminated administrative proceedings.

The Acting Administrator hereby approves the agreement entered into by the parties and publishes this Final Order under 21 CFR 1316.67. The Acting Administrator finds that Respondent pled guilty to two counts of distribution of controlled dangerous substances, in violation of N.J.S. 24:21–19(a)(1) and (b)(2) and N.J.S. 21:21–15a, and two counts of refusing and failing to keep records required to be kept for controlled dangerous substances, in violation of N.J.S. 24:21–21(a)(4) and (b); N.J.S. 24:21–13, N.J.S. 24:21–14(c) and N.J.S. 24:21–9 and New Jersey Administrative Code 8:65–5.3, 5.4 and 5.14. The Acting Administrator further finds that the New Jersey Board of Medical Examiners (Board) revoked Respondent's license to practice medicine and surgery in New Jersey on November 7, 1975, thereby terminating Respondent's authority to possess, dispense, prescribe or otherwise handle controlled substances in New Jersey. The Board thereafter amplified Respondent's license to permit him to practice medicine in a state, county or municipal charitable institution. The Board has also permitted Respondent to write prescriptions for controlled substances solely for patients at the institution at which he is employed, with each prescription to be filled at the institution pharmacy. Respondent is employed as a physician by the State of New Jersey at the New Jersey Memorial Home for Disabled Soldiers, Sailors, Marines and Their Wives and Widows in Vineland, New Jersey (Home).

Pursuant to the agreement, Respondent will submit to DEA quarterly reports for as long as he is employed at the Home. These reports will be a summary report of all controlled substances Respondent administered, dispensed and prescribed and shall include the name of the person who received the controlled substances, the controlled substances involved and its amount. The agreement is in effect only so long as Respondent is employed at the Home and that DEA will evaluate any future application for registration in another state or location independently of the agreement. Further, the agreement is probationary in nature and any violation of its terms will result in the summary revocation of Respondent's Certificate of Registration.

The agreement in this case is an appropriate resolution of the issues raised in the Order to Show Cause. 21 CFR 1301.76(a) provides that "a registrant shall not employ as an agent or an employee who has access to controlled substances any person who has had . . . his registration revoked at any time." The Acting Administrator finds Respondent's employment by the State of New Jersey at the Home is in the public interest, and that the public interest will be served if Respondent is permitted to handle controlled substances according to the terms of the agreement. Accordingly, the Acting Administrator waives the prohibition of 21 CFR 1301.76(a) to permit the State of New Jersey to employ Joseph A. Bonaccorsi, M.D. at the New Jersey Memorial Home for Disabled Soldiers, Sailors, Marines and Their Wives and Widows. See *Frank T. Riforgiato, M.D.*, 47 FR 50589 (1982); *Anthony Di Flumeri, M.D.*, Docket No. 82–9, 47 FR 30123 (1982) and *Joseph Bruce Friedman, M.D.*, Docket No. 81–17, 46 FR 58621 (1981) and cases cited therein, where the Administrator has waived application of 21 CFR 1301.76(a) in similar cases.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 823 and 824 and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator grants the application of Joseph A. Bonaccorsi, M.D., for registration under 21 U.S.C. 823 and 824 subject to the restrictions imposed by the agreement between Respondent and the Government, effective immediately.

Dated: January 17, 1983.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 83-2102 Filed 1-25-83; 8:45 am]

BILLING CODE 4410-09-M

[AAG/A Order No. 11-82]

Privacy Act of 1974; Additional Exemption for System of Records

Pursuant ot the Privacy Act of 1974, 5 U.S.C. 552a, the United States Marshals Service, Department of Justice proposes to modify a system of records entitled "Internal Investigations System, JUSTICE/USM–002." this system, most recently published at 46 FR 60343 (1981), consists of reports prepared by the Office of Internal Investigations, United States Marshals Service on findings of alleged misconduct of United States Marshals Service personnel.

The United States Marshals Service now proposes a new routine use which will allow release of information in the system to other Federal law enforcement agencies for further investigations where investigation has revealed actual or potential violation of criminal or civil laws. This routine use is compatible with the purposes for which the system is maintained; therefore, no report to the Office of Management and Budget and the Congress is required.

In the Proposed Rules section of today's Federal Register, the United States Marshals Service proposes to additionally exempt the system from the Privacy Act provision "to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record." 5 U.S.C. 552a(e)(8). This exemption applies to the extent that an investigation has revealed an actual or potential violation(s) of criminal or civil laws. [The system is currently exempt from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).]

These and minor editorial changes have been italicized for the convenience of the public.

Address any comments to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received within 30 days of the publication date of this notice, the new routine use will be adopted and a final rule will be published to accomplish codification of the new exemption in 28 CFR 16.101.

Dated: December 20, 1982.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/USM–002

SYSTEM NAME:

Internal Investigations System.

SYSTEM LOCATION:

United States Marshals Service: Department of Justice; One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Marshals Service employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Internal *Investigations* System contains reports prepared by the Office

of Internal *Investigations* United States Marshals Service on findings of alleged misconduct of U.S. Marshals, Service employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 CFR Subpart T. 0.11(n).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information gathered is used by U.S. Marshals Service in disciplinary proceedings against employees It is also used in administrative hearings before the *United States Merit Systems Protection Board* and in court proceedings. *To the extent that investigations reveal actual or potential violations of criminal or civil laws, the information is used by other Federal law enforcement agencies for further investigations.*

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Originals stored in file.

RETRIEVABILITY:

Information is retrieved by name of employee.

SAFEGUARDS:

Records are stored in locked safe.

RETENTION AND DISPOSAL:

Records are retained for 12 months and then referred to Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Internal Investigations, U.S. Marshals Service; U.S. Department of Justice, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

To the extent that this system is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of the requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information derived from investigation of alleged malfeasance, by U.S. Marshals Service Office of Internal Investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). To the extent that investigations reveal actual or potential criminal or civil violations, this system is additionally exempt from subsection (e)(8) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 83-2101 Filed 1-25-83; 8:45 am]
BILLING CODE 4410-01-M

MARINE MAMMAL COMMISSION

Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals; Meetings

The second notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors of Marine Mammals will meet on February 24, 25, and 26, 1983 at The New Otani Kaimana Beach Hotel, 2863 Kalakaua Avenue, Honolulu, Hawaii 98815. The revised agenda follows.

On February 24, from 11:00 a.m. to 5:10 p.m., the Commission and Committee will meet in public session to discuss and consider activities and problems related to: the California sea otter; bottlenose dolphin populations; preparations for forthcoming International Whaling Commission and North Pacific Fur Seal Commission meetings; and issues related to marine mammals in Alaska.

On February 25, from 9:00 a.m. to 6:00 p.m., the Commission and Committee will meet together in public session to discuss and consider the status of activities and problems affecting marine mammals, including matters related to: the protection and recovery of the endangered Hawaiian monk seal; humpback whales; marine mammal/fishery interactions; and net entanglement of marine mammals.

On February 26, from 8:30 a.m. to 11:25 a.m., the Commission and Committee will meet in public session to discuss and consider various aspects of the Minerals Management Service's activities affecting marine mammals and to summarize needed research efforts with respect to monk seals and sea otters.

The remainder of the meeting will consist of executive sessions of the Commission and Committee to be held on 24 February from 9:00 a.m. to 10:45 a.m. and on 26 February from 11:25 a.m. to 12:00 noon. These sessions will be devoted to the exchange of opinions and deliberations concerning internal personnel rules and practices, budget, interagency liaison, proposed policies and actions relating to international negotiations, proposed agency policies and actions, and the evaluation of proposals to conduct research in which participants will be candidly discussing and appraising the professional qualifications and competence of the proposers, their potential contribution to

the research program, and information given to the Commission and Committee in confidence. These sessions are concerned with matters listed in 5 U.S.C. 522(b)(c)(2), (3), (4), (6) and (9)(B), and therefore will not be open to the public.

January 21, 1983.

John R. Twiss, Jr.,

Executive Director.
Marine Mammal Commission.

[FR Doc. 83-2143 Filed 1-25-83; 8:45 am]

BILLING CODE 6820-31-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Collective Ratemaking Process; Cancellation of Public Meeting

Date: Thursday, January 27, 1983.

Place: Russell Senate Office Building, Room 235, Constitution Avenue and First Street, NE., Washington, D.C. 20510.

Time: 9:00 a.m.

Purpose: The meeting of the Motor Carrier Ratemaking Study Commission scheduled for Thursday, January 27, 1983, (published at 48 FR 2085, Jan. 17, 1983) has been cancelled. The meeting will be rescheduled at a later date.

For further information, contact: Name: J. Kent Jarrell, Title: General Counsel, Phone No.: (202) 724-9600.

Submitted this, the 25th day of January, 1983.

Larry F. Darby,

Executive Director.

[FR Doc. 83-2328 Filed 1-25-83; 10:10 am]

BILLING CODE 6820-BD-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-11]

NASA Advisory Council (NAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight.

DATE AND TIME: February 10-11, 1983, 9 a.m. to 5 p.m.

ADDRESS: NASA Headquarters, 600 Independence Avenue, Room 521J, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight was established under the NASA Advisory Council to conduct a study of the relevant issues and to report its findings and recommendations to the Council. The Task Force is chaired by Dr. John E. Naugle, and includes eight other members.

The meeting will be closed to the public. The members will discuss and evaluate, in a hypothetical sense, the names and qualifications of real individuals to test the adequacy of purposes, suitability criteria, and selection methods relating to the possible Shuttle flight of private citizens. Throughout the sessions, the qualifications of these individuals will be candidly discussed and appraised. Because the meeting will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this meeting should be closed to the public.

Type of meeting: Closed.

Dated: January 20, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-2040 Filed 1-25-83; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-6, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (facility) located in Charlevoix County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which pertain to (1) inservice inspection and (2) the definition of cold shutdown.

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 27, 1978 and September 16, 1982, (2) Amendment No. 56 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of January, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-2111 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Company; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Provisional Operating License No. DPR-20, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Van Buren County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves changes to the Appendix A Technical Specification provisions related to surveillance requirements for pumps, valves, and diesel generators.

The application for amendment complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 19, 1977, (2) Amendment No. 73 to License No. DPR-20, and (3) the Commission's related-Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of January, 1983

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-2112 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new revision or extension: New
2. The title of the information collection: Abandoned Well-Logging Sources
3. The form number if applicable: Not applicable
4. How often the collection is required: One time
5. Who will be required or asked to report: Agreement and Non-Agreement States
6. An estimate of the number of responses: 22
7. An estimate of the total number of hours needed to complete the requirement or request: 250
8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable
9. Abstract: NRC is requesting that specified States search their records pertaining to abandoned well-logging sources, annotate their records, and submit a verification letter or reply by telephone.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 20th day of January, 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-2113 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.10, "Establishing Quality Assurance Programs for Packaging Used in the Transport of Radioactive Material," provides persons subject to the quality assurance requirements of 10 CFR Part 71 with information on the essential elements needed to develop, establish, and maintain a quality assurance program acceptable to the NRC staff for packages to transport radioactive materials.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

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

Dated at Silver Spring, Maryland this 19th day of January, 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-2114 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Resource Assessment Subcommittee Meeting; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Resource Assessment Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday, February 4, 1983. 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 SW. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Tom Foley, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 83-2078 Filed 1-25-83; 8:45 am]

BILLING CODE 0000-00-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the twenty-eighth and final meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Columbia C Room at the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, D.C. from 9:00 a.m. to 12:00 noon on Friday, February 11, 1983.

The meeting will be open to the public, subject to limitations of available space. The agenda will include, among other things, consideration of a final report on the Commission's work, and reports on the status of other pending reports and business.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Andrew Burness, Public Information Officer, at (202) 653-8051.

Barbara Mishkin,

Deputy Director.

[FR Doc. 83-2140 Filed 1-25-83; 8:45 am]

BILLING CODE 6820-AV

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12980; (812-5401)]

Daily Money Fund; Filing Application

January 19, 1983.

Notice is hereby given that Daily Money Fund ("Applicant"), (formerly Devonshire Street Fund), 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 17, 1982, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant and any additional separate portfolios that may be established by Applicant, from Section 2(a)(41) of the Act and from Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. 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 an exemption is being sought.

Applicant states that it was organized and is presently legally existing as a business trust under the laws of The Commonwealth of Massachusetts. A registration statement under the Securities Act of 1933 and the Investment Company Act of 1940 on Form N-1 (file NO. 2-77909) was filed on June 7, 1982. Applicant presently consists of one Portfolio—a Money Market Portfolio. The Portfolio will invest in obligations of major U.S. banks, including U.S. dollar denominated obligations of foreign branches of U.S. banks and U.S. branches of foreign banks, prime commercial paper and obligations of the U.S. Government, its agencies or instrumentalities. The Applicant may also enter into repurchase agreements with broker-dealers and banks involving any security in which it is permitted to invest and may purchase new issues of government securities on a "when-issued" basis. In entering into repurchase agreements and purchasing "when issued" securities Applicant will comply with the views stated in Investment Company Act Release No. 10666.

Applicant is a series money market fund offering to individuals, corporations, fiduciaries and institutions a means to invest in a professionally managed portfolio of certain money market instruments with the objective of seeking as high a level of current income as is consistent with the preservation of capital and liquidity. Fidelity Management & Research Company ("Adviser") will serve as investment adviser to Applicant and will receive a fee at an annual rate of .70% of the average daily net assets of Applicant. The Applicant has adopted a Service Plan (the "Plan") pursuant to Rule 12b-1 under the Act. As provided in the Plan, the Adviser is permitted to make periodic payments through the Applicant's principal underwriter (Fidelity Distributors Corporation) out of the fee paid to the Adviser, its past profits or any other source available to it, to Qualified Recipients (certain securities dealers, financial institutions or other industry professionals) for distribution, administration and/or for servicing investors in Applicant's shares and for any costs of printing and distributing prospectuses and sales literature to prospective investors, advertising, and implementing and operating activities under the Plan.

In a May 31, 1977 interpretative release (Investment Company Act Release No. 9786), the Commission stated that (1) Rule 2a-4 requires that portfolio instruments of "money market" funds be valued with reference to market factors and (2) it would prospectively consider the use by a money market fund of the amortized cost basis for valuing its portfolio securities (except those having maturities of 60 days of less) to be inconsistent with Rule 2a-4. In view of the foregoing Applicant requests exemptions from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities by means of the amortized cost method of valuation.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes or persons, securities or transactions, from any provision or provisions of the Act or of 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.

Applicant states that it has been management's experience that in order to attract and retain investors Applicant must have a stable net asset value (preferably at $1.00 per share) and a constant and steady flow of investment income. Applicant believes that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling it 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 Applicant's net income as earned.

Applicant states that its Trustees have determined in good faith that in light of the characteristics of the Applicant as discribed above and absent unusual or extrordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects fair value of such securities. It is the Adviser's experience that given the nature of Applicant's policies and operations, there will be relatively negligible discrepancy between prices obtained by market value methods and amortized cost. Applicant submits that the issuance of the requested order 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.

Applicant expressly consents to the imposition of the following conditions in any order granting the relief it requests:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share for each portfolio, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included with the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share for any portfolio 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 action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average maturity of the relevant portfolio; withholding dividends; or utilizing a net asset value pershare as determined by using available market quotations.

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees 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.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of its portfolios, provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days in each portfolio.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant 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 Trustees' 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 Trustees' meetings. The documents preserved purusuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) In each portfolio Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks 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 the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition (c) was taken during the preceding fiscal quarter, and, if any 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 February 14, 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 Applicant 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.

[2] In fulfilling this condition, of the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for any of its portfolios, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity for that portfolio to 120 days or less as soon as reasonably practicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2072 Filed 1-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19441; File No. SR-MSTC-82-28]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 28, 1982 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Proposed Price Revision Schedule for the Midwest Securities Trust Company, effective January 3, 1983, was submitted with the filing as Exhibit A.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects fo such statements.

A Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed price revisions, effective January 3, 1983, reflect increases in monthly fixed service fees and several transaction fees, primarily those related to labor intensive functions. Because of cost savings experienced through automation over the past year, along with a projected growth in activity, MSTC has been able to retain the majority of the existing fees during 1983 despite the impact of inflation on its overall operations and those of participants. In addition, several services will continue to be subject to variable rates or maximum rate fees, to reflect economies of scale and to encourage growth. Any fees for services not reflected in the proposed schedule are not being revised.

The proposed fee schedule is consistent with Section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed fee schedule.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: January 19, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2073 Filed 1–25–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan No. 2075]

Mississippi; Declaration of Disaster Loan Area

Lowndes County in the State of Mississippi constitutes a disaster area as a result of damage caused by excessive rain and flooding which occurred on December 3, 1982 through January 6, 1983. Eligible persons, firms and organizations may file applications for physical damage until the close of business on March 21, 1983, and for economic injury until the close of business on October 19, 1983, at the address listed below:

U.S. Small Business Administration, 322 Federal Building, Jackson, Mississippi 39203

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 13⅜%

Homeowners without credit available elsewhere, 6⅜%

Businesses with credit available elsewhere, 11½%

Businesses without credit available elsewhere, 8%

Businesses (EIDL) without credit available elsewhere, 8%

Other (non-profit organizations including charitable and religious organizations), 11⅜%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated June 20, 1983.

Robert B. Webber,

Acting Administrator.

[FR Doc. 83–2128 Filed 1–25–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 846]

Request for Comments on U.S. Participation in UNESCO

AGENCY: Under Secretary for Security Assistance, Science and Technology Report on UNESCO Activities, Department of State.

ACTION: Notice of period for public comments on U.S. participation in the United Nations Educational, Scientific and Cultural Organization (UNESCO).

SUMMARY: Notice is hereby given that the Department of State, in connection with the preparation of the report to the Congress on certain aspects of U.S. participation in UNESCO required by Sections 108 and 109 of Pub. L. 97–241, is providing the opportunity for public comments concerning the effectiveness of UNESCO's utilization of its funds and the quality of that Organization's programs and activities, particularly any effect of such programs and activities on the functioning of a free press.

DATE: The period for comment will be open until 5:00 p.m., February 14, 1983.

ADDRESS: Comments should be sent to the Acting Coordinator for International Communications and Information Policy, Room 7208, U.S. Department of State, Washington, D.C. 20520.

SUPPLEMENTARY INFORMATION: Section 108 of Pub. L. 97–241 requires,in relevant part, that the President report to the Congress his assessment of, *inter alia* the use of U.S. contributions to UNESCO to serve U.S. national interests. Section 109 of that law requires the Secretary of State to report to the Congress whether UNESCO implements "any policy or procedure the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or among

countries, or to impose mandatory codes of journalistic practice or ethics"; a finding that UNESCO implements any such action would prevent funds authorized by Pub. L. 97-241 from being used to pay the U.S. assessed contribution to UNESCO. Although not required to solicit public comment, the Department of State is providing this opportunity due to the expression of significant public interest on the general subject.

Dated: January 21, 1983.

William C. Salmon,

Acting Coordinator for International Communications and Information Policy.

[FR Doc. 83-2161 Filed 1-25-83; 8:45 am]

BILLING CODE 4710-19-M

[Public Notice CM-8/596]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Accounting Standards of the Advisory Committee on International Investment, Technology, and Development on Friday, February 11, 1983, from 10:00 a.m., to 12:00 noon in Room 1205 at the Department of State, 2201 C Street NW., Washington, D.C. 20502. The meeting will be open to the public.

The purpose of the meeting will be to discuss the upcoming meeting of the U.N. Intergovernmental Working Group on International Standards of Accounting and Reporting, which will be held February 22 to March 4. The Working Group will also discuss the status of ongoing OECD work on accounting.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 11, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 83-2070 Filed 1-25-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series—No. 1-83]

Treasury Notes; Series Q-1985

January 20, 1983.

The Secretary announced on January 19, 1983, that the interest rate on the notes designated Series Q-1985, described in Department Circular—Public Debt Series—No. 1-83 dated January 13, 1983, will be 9¼ percent. Interest on the notes will be payable at the rate of 9¼ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-2068 Filed 1-25-83; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 18
Wednesday, January 26, 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

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, January 27, 1983 following the Open Meeting which is scheduled to commence at 9:30 A.M. in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No. and Subject

Enforcement—1. (1) Results of a field investigation into the operation of Radio Station WTJH, East Point, Georgia, and (2) renewal applications for WTJH and commonly owned Radio Stations WJIZ (FM), Albany, Georgia, and WMJM and WFAV(FM) Cordele, Georgia.

Hearing—1. WIOO, Inc. Carlisle, Pennsylvania, AM radio comparative renewal proceeding (Docket Nos. 21506-07)

2. Applications for Review in the Depere, Wisconsin comparative FM Radio proceeding (BC Docket Nos. 80-310, 80-312).

3. Draft Decision in the United Broadcasting Company (Docket Nos. 20611 and 20612).

Enforcement Item 1 is closed to the public because it concerns Investigatory Records Matters (See 47 CFR 0.603 (g)).

Hearing Items 1, 2, and 3 are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend the appropriate portions of this meeting: Commissioners and their Assistants, Managing Director and members of his staff, General Counsel and members of his staff, Chief, Mass Media Bureau and members of his staff, Chief, Office of Public Affairs and members of his staff.

Action by the Commission:

Enforcement Item 1, January 19, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

Hearing Items 1, 2 and 3, January 19, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider these items in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Affairs Office, telephone number (202) 254-7674.

Dated: January 20, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-111-83 Filed 1-24-83; 11:02 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the January 20, 1983 Open Meeting and previously listed in the Commission's Notice of January 13, 1983.

Agenda, Item No., and Subject

General—3. Title: Requirements for Licensed Operators in Various Radio Services.

Summary: The Commission will consider whether or not to adopt a Notice of Proposed Rule Making to eliminate licensed operator requirements in various radio services.

Dated: January 20, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-113-83 Filed 1-24-83; 11:02 am]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 31, 1983, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of Minutes of Previous Meetings

Application for consent to merge and establish one branch and to redesignate the main office: Clayton Banking Company, Clayton, Alabama, for consent to merge, under its charter and with the title "Southern Planters Bank & Trust," with Henry County Bank, Abbeville, Alabama, and to establish the sole office of Henry County Bank as a branch of the resultant bank, and for consent to redesignate the main office of Henry County Bank as the main office of the resultant bank.

Application for consent to purchase assets and assume liabilities and establish two branches: Kitsap County Bank, Port Orchard, Washington, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Poulsbo Branch of Prudential Mutual Savings Bank, Seattle, Washington, and the Bremerton Branch of State Mutual Savings Bank, Tacoma, Washington, and to establish those two offices as branches of Kitsap County Bank.

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. 45,399-L—Metropolitan Bank and Trust Company Tampa, Florida

Case No. 45,574—Mutual Savings Banks

Memorandum and Resolution re: American Bank & Trust Company, New York, New York

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Bank Supervision:

Memorandum re: First Pennsylvania Bank, N.A., Bala-Cynwyd, Pennsylvania; First Pennsylvania Corporation, Philadelphia, Pennsylvania; Report of Actions Taken Under Delegated Authority

Reports of the Director, Office of Corporate Audits:

Audit Report re: Chicago Region Financial Activities, dated December 16, 1982.
Audit Report re: Assessment Subsystem, dated January 6, 1983.

Discussion Agenda: No matters scheduled.

The meetings will be held in the Board Room on the sixth floor of the FDIC building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–114–83 Filed 1–24–83; 12:33 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

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 the open meeting of the Federal Deposit Insurance Corporation's Board of Directors scheduled for 2:00 p.m. on Monday, January 24, 1983, has been RESCHEDULED to 11:00 a.m. that same day and will be conducted by telephone conference call; and that the closed meeting of the Board of Directors scheduled for 2:30 p.m. on Monday, January 24, 1983, has been CANCELLED.

No earlier notice of the change in time of the open meeting and in the cancellation of the closed meeting was practicable.

Dated: January 21, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–115–83 Filed 1–24–83; 12:33 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 31, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof: Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Applications for consent to convert into non-FDIC insured institutions:
Mid Maine Mutual Savings Bank, Auburn, Maine.
Society for Savings, Hartford, Connecticut.

Recommendation 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. 45,555–L Reserves for Losses, 124 Open Liquidation Cases.

Memorandum re: Revised cost estimates—FDIC-assisted mutual savings bank mergers.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.: Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–116–83 Filed 1–24–83; 12:33 pm]

BILLING CODE 6714–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission

TIME AND DATE: January 26, 1983, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306

STATUS: Open

MATTERS TO BE CONSIDERED: Agenda

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 763rd Meeting—January 26, 1983, Regular Meeting (10:00 a.m.)

CAP–1. Project Nos. 6402–000 and 6403–000, Western Hydro Electric, Inc.
CAP–2. Project No. 6393–000, Lawrence J. McMurtrey
CAP–3. Project No. 6215–000, Western Hydro Electric, Inc.
CAP–4. Project No. 6205–000, Western Hydro Electric, Inc.
CAP–5. Project No. 6660–000, Raleigh and Virginia Stevens
CAP–6. Project No. 6765–001, BMB Enterprises
CAP–7. Project No. 6648–000, Lacomb Irrigation District
CAP–8. Project No. 4113–001, Long Lake Energy Corporation
Project No. 5315–001, Phoenix Hydro Corporation
Project No. 5323–001, Village of Phoenix, New York
Project No. 6806–001, New York State Energy Research and Development Authority
CAP–9. Project Nos. 5959–000, 5961–000, 5962–000, and 5963–000, New York State Office of Parks, Recreation and Historic Preservation
CAP–10. Project No. 6167–001, Ronald Rulofson
CAP–11. Project No. 5867–002, Long Lake Energy Corporation
CAP–12. Project No. 3193–002, City of Santa Clara, California
CAP–13. Project No. 4261–000, Consolidated Hydroelectric, Inc.
Project No. 5178–000, Modesto Irrigation District
CAP–14. Project Nos. 5312–000 and 001, J. R. Ferguson and Associates

Project Nos. 5337-000 and 001, Westfir Energy Company, Inc.
CAP-15. Project Nos. 2157-001 and 2157-010, Public Utility District No. 1 of Snohomish County and City of Everett, Washington
CAP-16. Project No. 6282-000, City of Boulder, Colorado Project No 6320-000, James W. Guercio
CAP-17. Omitted
CAP-18. Docket No. ER83-164-000, Iowa Public Service Company
CAP-19. Docket No. ER83-170-000, New England Power Company
CAP-20. Docket No. ER83-173-000, Metropolitan Edison Company
CAP-21. Docket Nos. ER82-853-001 and ER82-854-001, Appalacian Power Company
CAP-22. Docket No. ER83-2-001, Wisconsin Electric Power Company
CAP-23. Docket Nos. ER82-673-003 and ER82-673-004, Kentucky Utilities Company
CAP-24. Docket No. ER80-5-004, Minnesota Power & Light Company
CAP-25. Docket No. ER78-338-002, Public Service Company of New Mexico
CAP-26. Docket No. ER77-578-003, Kansas Gas and Electric Company
CAP-27. Docket Nos. ER81-70-000 and ER81-71-000, New England Power Company
CAP-28. Docket No. ER82-25-002, Commonwealth Edison Company
CAP-29. Docket No. ER82-26-000, West Florida Electric Cooperative Association, Inc. and Alabama Electric Cooperative, Inc. v. Gulf Power Company
CAP-30. Docket Nos. ER81-504-004 and ER 81-504-005, Delmarva Power & Light Company
CAP-31. Docket No. ER82-465-000, Empire District Electric Company
CAP-32. Docket No. ER78-379-000, Indiana & Michigan Electric Company
CAP-33. (A) Docket Nos. ER80-592, et al., Allegheny Power System, et al.
Docket Nos. ER80-657-000, ER82-672-000 and ER80-721-000, Cincinnati Gas & Electric Company
(B) Docket No. ER80-592, et al., Allegheny Power System, et al.
Docket No. ER80-613-000, Duke Power Company
(C) Docket No. ER80-592, et al., Allegheny Power System, et al.
Docket No. ER80-594-000, Iowa Power and Light Company
CAP-34. Project No. 3186-002, City of Ukiah, California Project No. 3351-000, Sonoma County Water Agency

Consent Miscellaneous Agenda

CAM-1. Docket No. RM83-49-000, Extension of Filing Date Under Section 133 of Purpa
CAM-2. Docket No. RM79-76-140 (Texas-11 Addition III), High-Cost Gas Produced From Tight Formations
CAM-3. Docket No. RM79-76-118 (New York-2), High-Cost Gas Produced From Tight Formations

Consent Gas Agenda

CAG-1. Docket No. RP83-34-000, Great Lakes Gas Transmission Company
CAG-2. Docket No. TA83-1-10-000 (PGA83-1), Tennessee Natural Gas Lines, Inc.
CAG-3. Docket No. TA83-1-15-000 (PGA83-1), Mid-Louisiana Gas Company
CAG-4. Docket No. TA83-1-16-000 (PGA83-1), National Fuel Gas Supply Corporation
CAG-5. Docket Nos. TA82-2-16-003, RP82-87-000 and TA83-1-16-001, National Fuel Gas Supply Corporation
CAG-6. Docket Nos. TA82-2-16-003 (PGA82-2b), RP82-87 and TA83-1-16-001 (GRI83-1a), National Fuel Gas Supply Corporation
CAG-7. Docket No. TA83-1-17-000 (PGA83-1), Texas Eastern Transmission Corporation
CAG-8. Docket No. TA83-1-61-000 (PGA83-1), West Lake Arthur Company
CAG-9. Docket No. RP82-115-001, Consolidated Gas Supply Corporation
CAG-10. Docket No. TA83-29-001 (PGA83-1a, IPR83-1, DCA83-1a), Transcontinental Gas Pipe Line Corporation
CAG-11. Docket No. RP82-33-004, El Paso Natural Gas Company
CAG-12. Docket No. TA83-1-43-000 (PGA83-1), Cities Service Gas Company
Docket No. RP82-113-000, Cities Service Gas Company
CAG-13. Docket No. RP83-13-002, El Paso Natural Gas Company
CAG-14. Docket Nos. TA82-2-17-005 (PGA82-2) (IPR82-2) and (DCA82-2) and RP81-109-007, Texas Eastern Transmission Corporation
CAG-15. Docket Nos. TA82-2-18-005 and RP82-74-004, Texas Gas Transmission Corporation
CAG-16. Docket No. TA83-1-53-002, Kansas-Nebraska Natural Gas Company, Inc.
CAG-17. Docket No. RP82-116-004, Southern Natural Gas Company
CAG-18. Docket No. TA82-2-42-009, TA82-2-42-001, RP81-130-000, and TA83-1-42-000, Transwestern Pipeline Company
CAG-19. Docket No. RP82-71-005, Northern Natural Gas Company
CAG-20. Docket No. TA82-2-46-003 (PGA82-2 and IPR82-2), Kentucky West Virginia Gas Company
CAG-21. Docket No. RP82-62-004, Natural Gas Pipeline Company of America
CAG-22. Docket Nos. TA83-1-6-000 and TA83-1-6-001 (PGA83-1, IPR83-1), Sea Robin Pipeline Company
CAG-23. Docket No. TA82-2-16-002, National Fuel Gas Supply Corporation
CAG-24. Docket No. TA82-2-22-000 (PGA82-2, IPR82-2, and RD&D82-2), Consolidated Gas Supply Corporation
CAG-25. Omitted
CAG-26. Docket Nos. RP80-97-019, 020, 021, RP81-54-008, 009 and 010, Tennessee Natural Gas Pipeline Company, et al.
CAG-27. Docket No. RP81-81-006, United Gas Pipeline Company
CAG-28. Docket No. OR78-1-011, Trans Alaska Pipeline System
CAG-29. Docket No. ST82-370-000, Northern Illinois Gas Company
CAG-30. Docket No. CI80-203-002, Eugene Shoal Oil Company
Docket No. CI83-14-001, CNG Producing Company
Docket No. CI83-17-001, Mesa Petroleum Company
Docket No. CI83-36-001, Superior Oil Company
Docket No. CI83-21-001, Koch Industries, Inc.
CAG-31. Docket No. CP83-132-000, Texas Eastern Transmission Corporation
CAG-32. Docket No. CP81-378-003, Texas Eastern Transmission Corporation
CAG-33. Docket No. CP83-29-000, Northern Natural Gas Company, Division of Internorth, Inc.
CAG-34. Docket No. CP82-524-000, Northern Natural Gas Company, Division of Internorth, Inc.
CAG-35. Docket No. CP80-271-001, United Gas Pipe Line Company
CAG-36. Docket No. CP64-109-000, Michigan Wisconsin Pipe Line Company
CAG-37. Docket No. CP82-452-001, Northwest Pipeline Corporation
CAG-38. Docket Nos. RP79-8-008 and RP80-8-001, Kansas-Nebraska Natural Gas Company, Inc.
CAG-39. Docket Nos. ST82-443-000 and ST82-445-000, Seagull Pipeline Corporation
CAG-40. Docket No. ST82-448-000, Cabot Corporation
CAG-41. Docket No. IS83-25-000, Mid-America Pipeline Company
CAG-42. Docket No. RP83-40-000, Inter-City Minnesota Pipelines Ltd.
CAG-43. Docket Nos. CI77-702-000, CI78-499-000, CI78-501-000, CI78-767-000, CI72-321-000, and CI74-214-000, Pennzoil Producing Company
Docket Nos. CI78-96-000, CI78-498-000, CI78-500-000, CI73-477-000, and CI73-546-000, Pennzoil Oil & Gas, Inc.
I. Licensed Project Matters:
P-1. Omitted
P-2. Project No. 289, Louisville Gas and Electric Company
II. Electric Rate Matters:
ER-1. Omitted
ER-2. Omitted

Miscellaneous Agenda

M-1. Docket No. RM82-10-000, Revision of Power System Statement: Form No. 12
M-2. Reserved
M-3. Reserved
M-4. Omitted
M-5. (A) Docket No. GP 83-10-000, State of Mississippi, Section 107 NGPA Determination, Sun Exploration and Production Company, Sun Gas Division, Ross Beatty No. 1 Well, JD No. 82-52240
(B) Docket No. GP83-9-000, State of Kansas, Section 102 NGPA Determination, TXO Production Corporation, Cromer #1 Well, JD No. 83-03969, State Docket No. K-82-0899
M-6. Docket No. RA82-28-000, MGPC, Inc.

Gas Agenda

I. Pipeline Rate Matters:
RP-1. Omitted
RP-2. Docket No. RP78-68-000, United Gas Pipe Line Company
RP-3. Docket No. RP79-23-003, Distrigas of Massachusetts Corporation
Docket No. RP79-24-002, Distrigas Corporation
RP-4. Docket No. RP80-107-009, Natural Gas Pipeline Company of America
RP-5. Docket Nos. RP80-91-000 and RP80-93-000, Arkansas-Louisiana Gas Company
II. Produced Matters: CI-1. Docket No. 67-1226-000, Phillips Petroleum Company
III. Pipeline Certificate Matters:
CP-1. Docket No. TC82-43-001, Kansas-Nebraska Natural Gas Company, Inc.

CP–2. Docket No. CP80–435–000, Alaskan Northwest Natural Gas Transportation Company
Docket No. CP78–13–000, et al., Northwest Alaskan Pipeline Company
CP–3. Docket No. CP81–188–002, Consolidated Gas Supply Corporation

Dated: January 19, 1983.

Kenneth F. Plumb,

Secretary.

[S–109–83 Filed 1–24–83; 10:33 pm]

BILLING CODE 6717–01–M

7

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:30 A.M., Wednesday, February 2, 1983.

PLACE: Board Room, 6th Floor, 1700 G St., Washington, D.C.

STATUS: OPEN MEETING.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Applications for Bank Membership and Insurance of Accounts—Wilshire Savings and Loan Association, Los Angeles, California.

Insurance of Accounts—Union Mutual Savings Association, Albuquerque, New Mexico.

Designation of Peter Shaw and Kevin McCarthy as Supervisory Agents Federal Home Loan Bank of Boston.

No. 5, January 24, 1983.

[S–110–83 filed 1–24–83; 10:54 am]

BILLING CODE 6720–01–M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:30 a.m., Monday, January 31, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed follow-up report to Congress on the International Banking Act of 1978.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 21, 1983.

James McAfee,

Associate Secretary of the Board.

[S–113–83 Filed 1–24–83; 11:43 am]

BILLING CODE 6210–01–M

9

INTERNATIONAL TRADE COMMISSION

Executive Resources Board (ERB).

TIME AND DATE: 11:00 a.m., Thursday, February 10, 1983.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

New Business

1. Approval of the 1983 Executive Development Participants' Individual Development Plans.

2. Managerial Development Candidates' Annual Appraisals.

Old Business

1. Discussion of the Presidential Exhange Program.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–117–83 Filed 1–24–83; 1:53 pm]

BILLING CODE 7020–02–M

10

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

DATE: February 7, 1983.

PLACE: Ida Noyes Hall, Library, University of Chicago, Chicago, Illinois.

TIME: 10:00 a.m. to 5:00 p.m.

PURPOSE: To receive testimony in the area of "Access and Choice". Dr. John B. Lee, of Applied Systems Institute, Inc. will present a paper contracted by the Commission entitled: *Changes in College Participation Rates and Student Financial Assistance.*

Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator, (202) 472–9023.

Submitted the 21st day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S–107–83 Filed 1–24–83; 10:22 am]

BILLING CODE 6820–BC–M

11

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

DATE: February 16, 1983.

PLACE: Hyatt Lexington, Patterson Ballroom, Lexington, Kentucky.

TIME: 8:30 a.m. to 4:00 p.m.

PURPOSE: To receive testimony in the area of academic progress, the delivery system, and GSL loan servicing.

Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator, (202) 472–9023.

Submitted the 21st day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S–108–83 Filed 1–24–83; 10:22 am]

BILLING CODE 6820–BC–M

federal register

Wednesday
January 26, 1983

Part II

Department of Health and Human Services

Office of Human Development Services

Child Abuse and Neglect Prevention and Treatment Program; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1340

Child Abuse and Neglect Prevention and Treatment Program

AGENCY: Office of Human Development Services, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is issuing final regulations to implement the amendments to the Child Abuse Prevention and Treatment Act contained in Title 1 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, Pub. L. 95–266, as amended. The regulations also clarify, simplify and eliminate where repetitive of the statute, the rules governing the Child Abuse and Neglect Prevention and Treatment Program and those related to the coordination of Federal activities related to child abuse and neglect.

EFFECTIVE DATE: February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Jay Olson, Special Assistant to the Director, National Center on Child Abuse and Neglect, Room 2006D, Donohoe Building, 400 6th Street SW., P.O. Box 1182, Washington, D.C. 20013, (202) 245–2859.

SUPPLEMENTARY INFORMATION

Background

The Child Abuse Prevention and Treatment Act (Pub. L. 93–247) (the Act) (42 U.S.C. 5101 et seq.) was enacted in 1974. It established within the Department of Health, Education and Welfare (now the Department of Health and Human Services) the National Center on Child Abuse and Neglect. The National Center is organizationally located within the Children's Bureau of the Administration for Children, Youth and Families, Office of Human Development Services.

The National Center on Child Abuse and Neglect, through the Act, was given responsibility for:

- Compiling and disseminating an annual summary of recent and on-going research on child abuse and neglect,
- Developing and maintaining an information clearinghouse,
- Compiling, publishing and disseminating training materials,
- Providing technical assistance to public and nonprofit private agencies and organizations,
- Conducting research, and
- Making a complete and full study of the national incidence of child abuse and neglect.

The Act also authorized the Center to make grants or enter into contracts with public agencies or nonprofit private organizations for demonstration programs and projects designed to prevent, identify, and treat child abuse and neglect, as well as make grants to States to assist States in developing, strengthening and carrying out child abuse and neglect prevention and treatment programs.

Finally, the Act provided that the Secretary appoint an Advisory Board to assist in coordinating Federal programs and activities related to child abuse and neglect and develop Federal standards for child abuse and neglect prevention and treatment programs and projects.

Pub. L. 95–266, enacted on April 24, 1978, extended the Child Abuse Prevention and Treatment Act through September 30, 1981. It also amended the Act by adding, in Section 3, sexual exploitation to the definition of child abuse and neglect. As a result, States applying for a State child abuse and neglect grant under Section 4(b)(1) of the Act are required to include sexual exploitation in their definition of child abuse and neglect.

The Department published a Notice of Proposed Rulemaking (NPRM) on May 27, 1980 (45 FR 35794) to implement these amendments.

Subsequently, Title VI, Chapter 7, of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, extended the programs authorized by the Child Abuse Prevention and Treatment Act, Pub. L. 93–247, as amended, through Fiscal Years 1982 and 1983.

In addition to the changes in the regulation required by Pub. L. 95–266, the Department of Health and Human Services is taking this opportunity to clarify and simplify the existing regulation in accordance with the Secretary's regulatory reform principles. In this context, we have omitted from these final rules those provisions contained in the NPRM which merely repeat the statute.

Discussion of Major Comments and Changes

The Department received approximately 60 comments from 24 agencies, organizations and individuals in response to the NPRM published on May 27, 1980 (45 FR 35794). Included below is a summary of the major comments from respondents, our response to those comments, and a discussion of the changes that we have made in the regulations.

Subpart A—General Provisions

Section 1340.1 Purpose and Scope

Section 1340.1(b)(3) authorizes the National Center on Child Abuse and Neglect to make grants or contracts for research, demonstration, and service improvement programs and projects. Eligibility for an award of a grant or contract in these specific areas is governed by the Act and is different for research applicants and demonstration and service improvement applicants. Therefore, the phrase "with public or private agencies and organizations" has been deleted as it pertained to only one category of eligible applicant; also there is no need to repeat the Statute.

Section 1340.2 Definitions

There were a number of supportive comments for many provisions of the proposed regulation. This included support for the definition of child abuse and neglect contained in § 1340.2.

Definition of Sexual Abuse and Sexual Exploitation (§ 1340.2(d) (1) and (2))

Comment.—Some respondents were particularly concerned about the possibility that States may need a legislative change to include sexual exploitation in their definition of child abuse and neglect. (The definition of child abuse and neglect specifies the reportable conditions or situations of child maltreatment.)

Response.—The 1978 amendments to the Child Abuse Prevention and Treatment Act added "sexual exploitation" to the definition of child abuse and neglect in the Act (42 U.S.C. 5102). The current regulations include within the definition of "child abuse and neglect" the phrase "sexual abuse as defined by State law." In order to avoid confusion in the meaning of the terms "sexual abuse" and "sexual exploitation" we added definitions for each of these terms in the Notice of Proposed Rulemaking (see § 1340.2(d) (1) and (2)).

A State is not required to have the words "sexual abuse" and "sexual exploitation" in its State statute as long as the State statute covers the conditions and situations described in the definition of these terms in these regulations. If a State needs to amend its statute to include sexual exploitation as a reportable condition, it has until the close of the second general legislative session of the State legislature that convenes after the effective date of these regulations to do so (see § 1340.13(a)(1)). We believe that the definitions of "sexual abuse" and "sexual exploitation" in these

regulations implement the intent of Congress, to assure that the various forms of sexual mistreatment of children are reported. In addition, we believe the provision that allows States that do not now provide for the reporting of sexual exploitation a reasonable period of time to amend their statutes is a fair and reasonable method of enabling them to comply with the requirements of the Act.

Comment.—Concern was also expressed that the phrase "for commercial purposes" limited the definition of sexual exploitation. Commentors asserted that sexual exploitation for commercial purposes omits sexually exploitive acts by those persons using children for non-commercial purposes, e.g., out of a deviant interest and desire for personal gratification.

Response.—We agree. Therefore, in § 1340.2(d)(2), we have dropped the words "for commercial purposes" from the definition as proposed in the NPRM. It is our intent to include within this new definition all sexual exploitation of children.

Definition of Negligent Treatment (§ 1340.2(d)(3))

Comments.—We received strong recommendations that the definition of "negligent treatment or maltreatment" be expanded to include failure to provide medical care.

Response.—We have reviewed this matter and agree with the recommendation. The definition of negligent treatment or maltreatment in a majority of State reporting laws now includes the failure of parents or caretakers to provide adequate food, clothing, shelter and medical care. Thus, the basic needs of children are identified in most State statutes; failure to supply these necessities of life are cause to make a report to the agency mandated by statute to investigate reported cases of child abuse and neglect.

Also, recent events in which parents or guardians failed to provide needed medical care or treatment to handicapped infant children who later died suggest that legal protections are needed for these infants.

In addition, the language of the Child Abuse Prevention and Treatment Act, as amended, supports the inclusion of failure to provide adequate medical care as a reportable condition. Section 3 of the Act (42 U.S.C. 5102) defines "child abuse and neglect" to cover acts or situations constituting abuse or neglect which occurs "under circumstances which indicates that the child's *health* or welfare is harmed or threatened thereby * * *." Section 4(b)(2)(C) of the Act (42 U.S.C. 5103(b)(2)(C)) provides that "upon a finding of abuse or neglect, immediate steps shall be taken to protect the *health* and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect; * * *"

Legislative history also reflects Congressional concern about the failure to provide specific medical treatment for a child, unless it is not provided for religious reasons, by persons responsible for the child's health or welfare. The Report of the House Education and Labor Committee contains the following:

> The Committee recognized that "negligent treatment" is difficult to define, but it is not the intent of the Committee that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specific medical treatment for a child is *for that reason alone* considered to be a negligent parent. To clarify further, no parent or guardian who in good faith is providing to a child treatment solely by spiritual means such as prayer according to the tenets and practices of a recognized church through a duly accredited practitioner shall *for that reason alone* be considered to have neglected the child. (H. Rep. 93-685, 93*rd* Cong., 1*st* Sess. (1973), pp. 4-5). (Emphasis in original)

In light of these factors and the need to insure the protection of children's health, we have included the failure to provide adequate medical care as a part of the definition of negligent treatment in § 1340.2(d)(3). If a State needs to amend its statute to include the "failure to provide adequate medical care" as a reportable condition, it has until the close of the second general legislative session of the State legislature following the effective date of these regulations to do so.

The definition of "harm or threatened harm to a child's health or welfare" in the existing regulations, 45 CFR 1340.1-2(b)(1), contains a religious exception which was interpreted by the Department to be an eligibility requirement for a State grant under Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)). This is an exception which provides that a parent or guardian who does not provide medical treatment for a child because of the parent's religious beliefs is not considered, for that reason alone, to be a negligent parent or guardian.

The religious exception in the proposed regulations appeared as a "Note" to the definition of 'negligent treatment or maltreatment' in § 1340.2(3) and was intended to be retained as an eligibility requirement for a State grant. That "Note" exempted a parent or guardian from being considered to have neglected his/her child if medical treatment is not provided because the parent or guardian is legitimately practicing his/her religious beliefs.

Eight respondents commented on this "Note" to the definition of "negligent treatment or maltreatment". Two respondents agreed with the deletion of the clause included in the current regulations, which recognizes the power of a court to require medical treatment over the religiously-based objections of the parent or guardian. These respondents also conveyed the satisfaction that had been expressed to them by the Christian Science Church with this part of the proposed regulation. One respondent requested that the substance of the "Note" be clearly stated as a regulation or be deleted.

Five of the respondents objected to this exemption and urged its removal from the proposed regulations. They presented several reasons for removing the proposed religious exemption from final regulations. Four respondents claimed that some children suffer and die as a result of their parents relying on spiritual healing under circumstances in which medical treatment could have prevented such results. Two respondents added that the religious exception impedes discovery of cases so that even if courts retain their power to order medical treatment, the exercise of that power often comes too late. Three respondents argued that all children deserve the protection of the law, with two of them observing that the religious exception served to deny children their constitutional right to life and to equal protection of the law. One respondent was also of the opinion that the religious exception inhibited criminal prosecution of parents, even if their child had died as a result of the failure to provide medical treatment. Another suggested that there should be a religious exception from criminal prosecution, but not one that impedes protective action under civil law. Finally, one respondent called attention to the fact that objections had been raised to the inclusion of the religious exception in the current regulations and that objections continue to be presented.

Response.—All of these responses were considered in the context of the Act, the regulation and the legislative history of the Act [H.R. Report No. 93-685, November 30, 1973, 93rd Congress, 1st Session (1973)]. The latter reported to the House of Representatives the bill that became the Child Abuse Prevention and Treatment Act, and contained a statement supporting a religious exception. As enacted, however, the Act

contained eligibility requirements for grants under Section 4(b)(2) (42 U.S.C. 5103(b)(2)); but did not include among them a religious exception. The Notice of Proposed Rulemaking of August 28, 1974 (39 FR 31507) to implement the Act included a religious exception as part of the definition of "child abuse and neglect." Although the Department received objections to this exception it concluded that the exception was intended by Congress. Consequently, in order to receive grants under Section 4(b)(1) of the Act (42 U.S.C. 5103(b)(1)), States were required to have a religious exception in their statutes or to certify their recognition of an exception by a State Attorney General's opinion. In 1978, when the Congress reauthorized the Act, it passed several amendments, including one that modified the definition of "child abuse and neglect." Again, however, the legislation failed to include mention of a religious exception. It was nonetheless included in the proposed regulations and elicited the comments noted above.

In light of this history and the objections of respondents, we have reexamined the legal support for a religious exception as an eligibility requirement under Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)). We have concluded that such an eligibility provision is not required by the Act. Therefore, § 1340.2(d)(3)(ii) of the final regulation states that the regulations are not to be construed as prohibiting or requiring a finding of negligent treatment or maltreatment when a parent practicing his/her religious beliefs does not, for that reason alone, provide medical treatment for a child. Thus, States are free to recognize or not recognize a religious exception without that choice having any effect on eligibility for a State child abuse grant. The regulation provides at § 1340.2(d)(3)(ii) that if under State law a finding of negligent treatment is prohibited when medical treatment is withheld for religious reasons, that prohibition does not limit the authority of the State to insure that needed medical treatment is provided.

Definition of Threatened Harm (§ 1340.2(d)(4))

Comments.—One respondent requested that the regulation clarify the definition of "threatened harm to a child's health or welfare," which the proposed regulation defined as "a substantial risk of harm to the child's health or welfare." It was suggested that some less ambiguous term be used.

Response.—As there were no additional suggestions for changing or clarifying this definitional term and because we could find no substitute language which seemed to be clearer, it was decided that no change would be made.

"Threatened harm" is a part of the definition of child abuse and neglect in both the Act and regulations. The NPRM defined threatened harm to mean a substantial risk of harm to the child's health or welfare. The Act defines child abuse and neglect so as to include acts or omissions including child abuse, sexual abuse and child neglect by persons responsible for a child's welfare under circumstances which indicate harm or threatened harm to the health or welfare of the child. (42 U.S.C. 5102.) The reasons for the inclusion of "threatened harm" is based on the premise that society should not have to wait until a child is actually injured before protective action is taken. At the same time we recognize that, in some instances the harm that is threatened is not of a sufficient degree to necessitate State intervention. The term "substantial risk" is used to clarify that a State need not intervene until, in its judgment, the threat of harm to the child is real and significant.

Definition of a Person Responsible for a Child's Welfare (§ 1340.2(d)(6))

Comments.—The proposed regulation defined "a person responsible for a child's welfare" to include those persons responsible for around the clock care of children (§ 1340.2(5), now § 1340.2(d)(6)). A suggestion was made to add others to this definition such as teachers and employees of public or private institutions.

Response.—For children in settings which provide less than 24-hour care such as day care centers and schools, we believe that primary reliance should be placed on parents to protect their own children by voicing their concerns to school officials or seeking criminal action. Therefore, we do not believe a change in the language of the regulation to include personnel of day care centers and schools is necessary or desirable.

Coordination Requirements (§ 1340.4)

We have added a new § 1340.4 to the final rules which requires that all Federal agencies responsible for programs related to child abuse and neglect must provide information as required by the Commissioner to insure effective coordination of effort.

This is not a new requirement but is derived from Subpart D as proposed in the NPRM.

Subpart B—Grants to States

Section 1340.11 Allocation of Funds Available

Comment.—One comment suggested that the amount of State grant funds available for States that do not apply or are found ineligible should be allocated among the eligible States, deleting the second option in the proposed regulation that would permit the Commissioner of ACYF to authorize the use of funds "for such other purposes under the Act."

Response.—The suggestion is consistent with our current practices. Therefore, we have revised the regulation to limit reallocation of State grant funds to eligible States.

Section 1340.12 Application Process

We have deleted § 1340.12(b) of the NPRM which provided for the solicitation of State grant applications each Federal fiscal year by a publication in the **Federal Register** of a "Notice of Availability of funds for State grants." Since the only eligible applicants for State grants are the State agencies designated by the Governor to apply for such funds (§ 1340.12(a)), we have eliminated the annual **Federal Register** Notice effective in fiscal year 1982. Instead, we have substituted a specific program instruction, mailed directly to the appropriate State agencies, which includes necessary application forms, allocations and deadline for submission of the State grant application.

Comment.—A suggestion was made that eligible applicants for State grants include local public housing authorities.

Response.—State grants are made only to States. However, local public housing authorities may apply for a demonstration, research or service improvement grant under Section 2(b)(5) or Section 4 of the Act (42 U.S.C. 5101(b)(5) or 42 U.S.C. 5103).

Section 1340.14 Eligibility Requirements

Comments.—Some commentors objected to the deletion of the language found in the current regulation at 45 CFR 1340.3-3(b) pertaining to the definition of child abuse and neglect. That section explains that definitions of child abuse and neglect used by States which are the "same in substance" as the ones set forth in the regulation will be sufficient to meet Federal definitional requirements.

Response.—The language was deleted from the proposed regulations as unnecessary. However, respondents correctly pointed out that States have never been required to have language identical to the Act or regulation in

order to qualify for a grant. Therefore, we will retain the language of the current regulation in § 1340.14, to provide that a State's definition of child abuse and neglect which is the same in substance as the one set forth in the regulation will be acceptable.

Section 1340.14 of the proposed regulation also contained an elaboration of the ten eligibility requirements which a State must satisfy to qualify for a State grant. However, after more careful review of Section 4 (b) (2) of the Act, it was our decision not to repeat the provisions of the Act in regulations. Therefore, those requirements in the NPRM which duplicate the language of the Act have been eliminated. Of course, the requirements of the Act in Section 4 (b) (2) remain fully applicable.

Section 1340.14(c) of the NPRM providing immunity for persons reporting instances of child abuse and neglect from prosecution has been deleted because it duplicates the language of the Act in Section 4(b) (2) (A).

Comment.—One respondent requested further clarification of what was meant by a "different properly constituted authority" in § 1340.14(e).

Response.—In instances of child abuse and neglect that occur in an institutional setting, the investigating agency must be separate enough from the agency alleged to have abused or neglected a child to ensure an adequate impartial and objective investigation. This means that the State agency having responsibility for the investigation of reports of abuse or neglect may not investigate reported instances of child abuse or neglect made against institutions operated by that agency.

The same respondent also asked whether the State agency responsible for investigating allegations of institutional child abuse can investigate a reported instance of child abuse and neglect if the alleged abuse or neglect was by a contract vendor or purchase of service provider.

It is acceptable for the State mandated agency responsible for investigating reports of known and suspected instances of child abuse or neglect to investigate reports from residential facilities as long as such facilities do not have on their staff employees from the mandated agency and are not directly operated by the mandated agency. As these comments were related to the respondent's request for clarification of the meaning of the regulation we believe that no change in the regulation is necessary.

Section 1340.14(h) was revised by omitting that language which was duplicative of the Act. Sections 1340.14(i), (j), (k) and (l) were omitted as they were duplicative of provisions in the Act.

Comment.—Comments on § 1340.14(g) which mandates the appointment of a guardian *ad litem* in all judicial proceedings, involving an abused or neglected child, were concerned about: (1) The appropriateness of the person presenting the evidence in a judicial proceeding also serving as the guardian *ad item;* and (2) the absence of a provision which would permit a State to satisfy the guardian *ad litem* requirement by court rule.

Response.—On the basis of the comments received we are making two changes in § 1340.14(g). First, we are eliminating as a person who may serve as a guardian *ad litem* the attorney who presents the evidence in a judicial proceeding alleging child abuse or neglect. This was done to eliminate the possibility of conflicting roles as there is serious question about having a presenter of the evidence also serve as a child's guardian *ad litem.*

Secondly, a State may elect to promulgate Court Rules mandating the appointment of a guardian *ad litem* in judicial proceedings. This will now be an added option for the State in satisfying the guardian *ad litem* requirement.

Subpart C—Discretionary Grants and Contracts

There were no comments from respondents on Subpart C of the NPRM. Two of the three sections in this Subpart proposed in the NPRM have been eliminated from the final rule because they duplicate the language of the Act in Sections 2(b) and 4(b)(1) (discretionary grants and contracts). Only the provision regarding confidentiality (§ 1340.20) has been retained in Subpart C to afford the same protection of personal facts or circumstances about individuals involved in discretionary projects or programs as is provided to individuals under the State grant program.

Subpart D—Coordination of Federal Activities

Except for the coordination requirements for Federal agencies which now appears in new § 1340.4, we have eliminated Subpart D. We do not believe it is necessary to publish the administrative and procedural requirements for the Advisory Board in regulations.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concludes that this final rule is not a major rule within the meaning of the Executive Order because it does not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Pub. L. 96-354, requires that an agency prepare a regulatory flexibility analysis for a proposed rule, or a final rule issued after a proposal, if a rule would have a significant economic impact on a substantial number of small businesses, small nonprofit organizations, or small governmental jurisdictions. However, this requirement does not apply to final rules for which a proposed rule was published before January 1, 1981 (section 4 of the Regulatory Flexibility Act). Because the proposed rule that preceded this final rule was published earlier, an analysis is not required under the Regulatory Flexibility Act.

Recordkeeping and Reporting Requirements

Under the Paperwork Reduction Act of 1980 the Department is required to submit to the Office of Management and Budget, for review and approval, any information collection or reporting requirement. Reporting requirements within § 1340.3(a) and 1340.12 requiring OMB approval, which was granted, are:

Section	Reporting requirements	Form/OMB Nos.	Expiration date
1340.3(a)—Application of department-wide regulations.	45 CFR 74.73, Financial Status Report.	SF-269, 0980-0122	10/31/83
1340.12—Application process.	State grant application.	SF-424, 0980-0016	2/28/84

List of Subjects in 45 CFR Part 1340

Child welfare, Family violence, Grant programs—health, Grant programs—social programs, Reporting requirements, Research, Technical assistance, Youth.

(Catalog of Federal Domestic Assistance Program No. 13.628, Child Abuse and Neglect Prevention and Treatment)

Dated: July 20, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

For the reasons set forth in the preamble, Part 1340 of 45 CFR is revised to read as follows:

PART 1340—CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT

Subpart A—General Provisions

Sec.

Subpart B—Grants to States

Subpart C—Discretionary Grants and Contracts

Authority: The Child Abuse Prevention and Treatment Act Pub. L. 93-247, 88 Stat. 4; Pub. L. 95-266, 92 Stat. 205; Secs. 609-610, Pub. L. 97-35, 95 Stat. 488 (42 U.S.C. 5101 et seq.)

Subpart A—General Provisions

§1340.1 Purpose and scope.

(a) This part implements the Child Abuse Prevention and Treatment Act of 1974, as amended. As authorized by the Act, the National Center on Child Abuse and Neglect seeks to assist agencies and organizations at the national, State and community levels in their efforts to improve and expand child abuse and neglect prevention and treatment activities.

(b) The National Center on Child Abuse and Neglect seeks to meet these goals through:

(1) Conducting activities directly (by the Center);

(2) Making grants to States to improve and expand their child abuse and neglect prevention and treatment programs;

(3) Making grants to and entering into contracts for: Research, demonstration and service improvement programs and projects, and training, technical assistance and informational activities; and

(4) Coordinating Federal activities related to child abuse and neglect. This part establishes the standards and procedures for conducting the grant funded activities and contract and coordination activities.

(c) Requirements related to child abuse and neglect applicable to programs assisted under titles IV-A and IV-B of the Social Security Act are implemented by regulation at 45 CFR Part 1392, Subpart E.

(d) Federal financial assistance is not available under the Act for the construction of facilities.

§ 1340.2 Definitions

For the purposes of this part:

(a) "A properly constituted authority" is an agency with the legal power and responsibility to perform an investigation and take necessary steps to prevent and treat child abuse and neglect. A properly constituted authority may include a legally mandated, public or private child protective agency, or the police, the juvenile court or any agency thereof.

(b) "Act" means the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101, et seq.

(c) "Center" means the National Center on Child Abuse and Neglect established by the Secretary under the Act to administer this program.

(d) "Child abuse and neglect" means the physical or mental injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term encompasses both acts and omissions on the part of a responsible person.

(1) "Sexual abuse" includes rape, incest, and sexual molestation as those acts are defined by State law, by a person responsible for the child's welfare.

(2) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution, as defined by State law, by a person responsible for the child's welfare; and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child as those acts are defined by State law, by a person responsible for the child's welfare.

(3)(i) "Negligent treatment or maltreatment" includes failure to provide adequate food, clothing, shelter, or medical care.

(ii) Nothing in this Part should be construed as requiring or prohibiting a finding of negligent treatment or maltreatment when a parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child; provided, however, that if such a finding is prohibited, the prohibition shall not limit the administrative or judicial authority of the State to insure that medical services are provided to the child when his health requires it.

(4) "Threatened harm to a child's health or welfare" means a substantial risk of harm to the child's health or welfare.

(5) "A person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an employee of a public or private residential home or facility or other person legally responsible under State law for the child's welfare in a residential setting.

(e) "Commissioner" means the Commissioner of the Administration for Children, Youth and Families of the Department of Health and Human Services.

(f) "Grants" includes grants and cooperative agreements.

(g) "Secretary" means the Secretary of Health and Human Services, or other HHS official or employee to whom the Secretary has delegated the authority specified in this part.

(h) "State" means each of the several States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific.

§ 1340.3 Applicability of Department-wide regulations.

(a) The following HHS regulations are applicable to all grants made under this part:

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

(b) The following regulations are applicable to all contracts awarded under this part:

47 CFR Chapter 1—Federal procurement regulations.
41 CFR Chapter 3—Federal procurement regulations—Department of Health and Human Services.

§ 1340.4 Coordination requirements.

All Federal agencies responsible for programs related to child abuse and neglect shall provide information as required by the Commissioner to insure effective coordination of efforts.

Subpart B—Grants to States

§ 1340.10 Purpose of this subpart.

This subpart sets forth the requirements and procedures States must meet in order to receive discretionary grants to improve or expand State child abuse and neglect prevention and treatment programs under sections 4(b) (1) and (2) of the Act (42 U.S.C. 5103(b) (1) and (2)).

§ 1340.11 Allocation of funds available.

(a) The Commissioner shall allocate the funds available for grants to States for each fiscal year among the States on the basis of the following formula:

(1) An amount of $25,000 or such other amount as the Commissioner may determine; plus

(2) An additional amount bearing the same ratio to the total amount made available for this purpose (reduced by the minimum amounts allocated to the States under paragraph (a)(1) of this section) as the number of children under the age of eighteen in each State bears to the total number of children under eighteen in all the States. Annual estimates of the number of children under the age of eighteen, provided by the Bureau of the Census of the Department of Commerce, are used in making this determination.

(b) If a State has not qualified for assistance under the Act and this subpart prior to a date designated by the Commissioner in each fiscal year, the amount previously allocated to the State shall be allocated among the eligible States.

§ 1340.12 Application process.

(a) The Governor of the State may submit an application or designate the State office, agency, or organization which may apply for assistance under this subpart. The State office, agency, or organization need not be limited in its mandate or activities to child abuse and neglect.

(b) Grant applications must include a description of the activities presently conducted by the State and its political subdivisions in preventing and treating child abuse and neglect, the activities to be assisted under the grant, a statement of how the proposed activities are expected to improve or expand child abuse prevention and treatment programs in the State, and other information required by the Commissioner in compliance with the paperwork reduction requirements of 44 U.S.C. Chapter 35 and any applicable directives issued by the Office of Management and Budget.

(c) States shall provide with the grant application a statement signed by the Governor that the State meets the requirements of the Act and of this subpart. This statement shall be in the form and include the documentation required by the Commissioner.

§ 1340.13 Approval of applications.

(a) The Commissioner shall approve an application for an award for funds under this subpart if he or she finds that:

(1) The State is qualified and has met all requirements of the Act and § 1340.14 of this Part, except for the definitional requirement of § 1340.14(a) with regard to the definition of "sexual exploitation" (see § 1340.2(2)) and the definitional requirement of negligent treatment as it relates to the failure to provide adequate health care (see 1340.2(d)(3)). The State must include these two definitional requirements in its definition of child abuse and neglect no later than the close of the second general legislative session of the State legislature following February 25, 1983;

(2) The funds are to be used to improve and expand child abuse or neglect prevention or treatment programs; and

(3) The State is otherwise in compliance with these regulations.

(b) At the time of an award under this subpart, the amount of funds not obligated from an award made eighteen or more months previously shall be subtracted from the amount of funds under the award, unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

§ 1340.14 Eligibility requirements.

In order for a State to qualify for an award under this subpart, the State must satisfy each of the following requirements:

(a) The State must satisfy each of the requirements provided in Section 4(b)(2) of the Act.

(b) *Definition of Child Abuse and Neglect.* Wherever the requirements below use the term "Child Abuse and Neglect" the State must define that term in accordance with § 1340.2. However, it is not necessary to adopt language identical to that used in § 1340.2, as long as the definition used in the State is the same in substance.

(c) *Reporting.* The State must provide by statute that specified persons must report and by statute or administrative procedure that all other persons are permitted to report known and suspected instances of child abuse and neglect to a child protective agency or other properly constituted authority.

(d) *Investigations.* The State must provide for the prompt initiation of an appropriate investigation by a child protective agency or other properly constituted authority to substantiate the accuracy of all reports of known or suspected child abuse or neglect. This investigation may include the use of reporting hotlines, contact with central registers, field investigations and interviews, home visits, consultation with other agencies, medical examinations, psychological and social evaluations, and reviews by multidisciplinary teams.

(e) *Institutional child abuse and neglect.* The State must have a statute or administrative procedure requiring that when a report of known or suspected child abuse or neglect involves the acts or omissions of the agency, institution, or facility to which the report would ordinarily be made, a different properly constituted authority must receive and investigate the report and take appropriate protective and corrective action.

(f) *Emergency services.* If an investigation of a report reveals that the reported child or any other child under the same care is in need of immediate protection, the State must provide emergency services to protect the child's health and welfare. These services may include emergency caretaker or homemaker services; emergency shelter care or medical services; review by a multidisciplinary team; and, if appropriate, criminal or civil court action to protect the child, to help the parents or guardians in their responsibilities and, if necessary, to remove the child from a dangerous situation.

(g) *Guardian ad litem:* In every case involving an abused or neglected child which results in a judicial proceeding, the State must insure the appointment of a guardian ad litem or other individual whom the State recognizes as fulfilling the same functions as a guardian ad litem, to represent and protect the rights and best interests of the child. This requirement may be satisfied: (1) By a statute mandating the appointments; (2) by a statute permitting the appointments, accompanied by a statement from the Governor that the appointments are made in every case; (3) in the absence of a specific statute, by a formal opinion of the Attorney General that the appointments are permitted, accompanied by a Governor's statement that the appointments are made in every case; or (4) by the State's

Uniform Court Rule mandating appointments in every case. However, the guardian *ad litem* shall not be the attorney responsible for presenting the evidence alleging child abuse or neglect.

(h) *Prevention and treatment services:* The State must demonstrate that it has throughout the State procedures and services deal with child abuse and neglect cases. These procedures and services include the determination of social service and medical needs and the provision of needed social and medical services.

(i) *Confidentiality.* (1) The State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense.

(2) If a State chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines:

(i) The agency (agencies) or organizations (including its designated multidisciplinary case consultation team) legally mandated by any Federal or State law to receive and investigate reports of known and suspected child abuse and neglect;

(ii) A court, under terms identified in State statute;

(iii) A grand jury;

(iv) A properly constituted authority (including its designated multidisciplinary case consultation team) investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of a report;

(v) A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

(vi) A person legally authorized to place a child in protective custody when the person has before him or her a child whom he or she reasonably suspects may be abused or neglected and the person requires the information in the report or record in order to determine whether to place the child in protective custody;

(vii) An agency authorized by a properly constituted authority to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect;

(viii) A person who is responsible for the child's welfare, with protection for the identity of any person reporting known or suspected child abuse or neglect and any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person;

(ix) A child named in the report or record alleged to have been abused or neglected or (as his/her representative) his/her guardian or guardian ad litem;

(x) An appropriate State or local official responsible for administration of the child protective service or for oversight of the enabling or appropriating legislation, carrying out his or her official functions; and

(xi) A person, agency, or organization engaged in a bonafide research or evaluation project, but without information identifying individuals named in a report or record, unless having that information open for review is essential to the research or evaluation, the appropriate State official gives prior written approval, and the child, through his/her representative as cited in paragraph (i), gives permission to release the information.

(3) Nothing in this section shall be interpreted to prevent the properly constituted authority from summarizing the outcome of an investigation to the person or official who reported the known or suspected instances of child abuse or neglect or to affect a State's laws or procedures concerning the confidentiality of its criminal court or its criminal justice system.

(4) HHS and the Comptroller General of the United States or any of their representatives shall have access to records, as required under 45 CFR 74.24.

Subpart C—Discretionary Grants and Contracts

§ 1340.20 Confidentiality.

All projects and programs supported under the Act must hold all information related to personal facts or circumstances about individuals involved in those projects or programs confidential and shall not disclose any of the information in other than summary, statistical, or other form which does not identify specific individuals, except in accordance with § 1340.14(i).

[FR Doc. 83-2149 Filed 1-25-83; 8:45 am]

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federal register

Wednesday
January 26, 1983

Part III

Department of Energy

National Energy Policy Plan; Public Hearings

DEPARTMENT OF ENERGY

National Energy Policy Plan; Public Hearings

AGENCY: Department of Energy.

ACTION: Notice of Public Hearings on National Energy Policy Plan.

SUMMARY: In accordance with section 801 of the Department of Energy Organization Act (Pub. L. 95–91), the Department of Energy (DOE) is beginning to prepare the fourth biennial National Energy Policy Plan (NEPP–IV) currently scheduled to be submitted to the Congress in the Spring. To have the benefit of a broad range of public viewpoints in the development of NEPP–IV, DOE will hold a series of public hearings throughout the Nation. Listed below are the dates, locations, and field contacts for the hearings.

Public Hearings on NEPP–IV

Atlanta, Georgia

Date and Time: March 2, 1983, 9:00 a.m. to 9:00 p.m.

Place: Richard B. Russell Building, 75 Spring Street, Atlanta, Georgia 30309.

Contact: Walter C. Butler, U.S. Department of Energy, Savannah River Operations Office, Atlanta Support Office, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309. Telephone: 404/881–2837.

Burlington, Vermont

Date and Time: March 3, 1983, 9:00 a.m. to 9:00 p.m.

Place: Raddisson Burlington Hotel, Burlington Square—Ballroom I, Burlington, Vermont 05401.

Contact: Hugh Saussy, Director, Boston Support Office, U.S. Department of Energy, Analex Building, Room 700, 150 Causeway Street, Boston, Massachusetts 02114. Telephone: 617/223–3701.

Denver, Colorado

Date and Time: March 4, 1983, 9:00 a.m. to 9:00 p.m.

Place: The Regency (Palladium Room), 3900 Elati, Valley Highway at 38th Avenue, Exit 213 on I–25, Denver, Colorado 80216.

Contact: Robert M. Zeeck, A0100, Public Affairs Officer, Western Area Power Administration, P.O. Box 3402, Golden, Colorado 80401. Telephone: 303/231–1554.

Detroit, Michigan

Date and Time: February 28, 1983, 9:00 a.m. to 9:00 p.m.

Place: McGregor Memorial Conference Center, Room B–495, West Ferry Mall, (Between Cass Avenue and Anthony Wayne Drive), Wayne State University, Detroit, Michigan 48202.

Contact: Gary L. Pitchford, Director, Office of Communications, U.S. Department of Energy, Chicago Operations Office, 175 Boulevard, Room A–1136, Chicago, Illinois 60625. Telephone: 312/353–5769.

Sacramento, California

Date and Time: March 3, 1983, 9:00 a.m. to 9:00 p.m.

Place: Sacramento Community/Convention Center, Yuba Room, 1100 14th Street (14 & K), Sacramento, California 95814.

Contact: Ms. Fabienne Harris, Energy Information Center, San Francisco Operations Office, U.S. Department of Energy, 1333 Broadway, Oakland, California 94612. Telephone: 415/273–4428.

Tulsa, Oklahoma

Date and Time: March 1, 1983, 9:00 a.m. to 9:00 p.m.

Place: First National Bank Tower, Lower Level Auditorium, 5th Street and Boston Avenue, Tulsa, Oklahoma 74101.

Contact: Brad Byers, Public Affairs Officer, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101. Telephone: 918/581–7473.

Washington, D.C.

Date and Time: March 2, 1983, 9:00 a.m. to 9:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 8E–089, Washington, D.C. 20585.

Contact: Paula Unruh, Director, Office of Consumer Affairs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone: 202/252–5373.

The morning session will begin at 9 a.m. with introductory remarks, followed immediately by presentations by individual citizens and representatives of groups and organizations.

To stimulate and focus discussion at these hearings, DOE staff have prepared a short working paper, which is appended to this Notice. There is no requirement, however, that presentations or discussions at the meeting be limited to the subject matter of this document. Single copies of the working paper will be available on February 2, 1983 and may be obtained free of charge from: Office of Public Affairs, Department of Energy, Forrestal Building, Room 1E–206, 1000 Independence Avenue, SW., Washington, D.C. 20585. Phone: 202–252–5575.

Further information and copies of the working paper also may be obtained from the following DOE Operations (Field) Offices:

Walter C. Butler, U.S. Department of Energy, Savannah River Operations, Atlanta Support Office, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309. Telephone: 404/881–2837

Hugh Saussy, Director, Boston Support Office, U.S. Department of Energy, Analex Building, Room 700, 150 Causeway Street, Boston, Massachusetts 02114. Telephone: 617/223–3701

Robert M. Zeeck, A0100, Public Affairs Officer, Western Area Power Administration, P.O. Box 3402, Golden, Colorado 80401. Telephone: 303/231–1554

Ms. Fabienne Harris, Energy Information Center, San Francisco Operations, U.S. Department of Energy, 1333 Broadway, Oakland, California 94612. Telephone: 415/273–4428.

Paula Unruh, Director, Office of Consumer Affairs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone: 202/252–5373.

Gary L. Pitchford, Director, Office of Communications, U.S. Department of Energy, Chicago Operations Office, 175 West Jackson Boulevard, Room A–1136, Chicago, Illinois 60525. Telephone: 312/353–5769

Brad Byers, Public Affairs Officer, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101. Telephone: 918/581–7473.

Copies of the working paper may also be obtained from the hearing contacts and at the hearings.

The staff working paper is not intended to constitute a draft National Energy Policy Plan. It has been written to stimulate public comment and recommendations that can be used to shape the final document.

Procedures for Participation

Written Comment. Interested persons are invited to submit within 60 days of the date of this Notice, data, reviews, or recomendations with respect to the next National Energy Policy Plan. Written comments should be addressed to: William J. Silvey, Associate Director, Office of Policy, Planning, and Analysis, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

"NEPP–IV" should be written on the outside of the envelope and on documents submitted.

Any information or data considered confidential by the person furnishing it must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat the information or data according to its determination.

Public Hearings. Any person or representative of a group may make a written or oral request for an opportunity to make an oral presentation at the public hearings. Such requests must be received no later than 3 working days before the appropriate NEPP–IV hearing. Requests should be directed to the appropriate hearing contact at the address given above and should be in accordance with the procedures set forth below. Written requests should be labeled "NEPP–IV" both on the document and on the envelope. No oral requests for presentation will be scheduled until after all written requests are scheduled.

Those who register in advance will be heard first or at times reserved for them. Those present at the hearing who would like to speak but who have not preregistered will be accommodated if time permits. Verbatim transcripts will be made of all sessions.

It would be helpful if the person making the request would describe briefly the interest concerned; if applicable, indicate why she or he is a proper representative of the group having such an interest; and provide a phone number where she or he may be contacted during working hours.

While an attempt will be made to accommodate all who wish to be heard, it may not be practical to do so, and DOE reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the harings. Time allotted to each presentation may be limited, based on the number of persons requesting to be heard.

A presiding officer will be designated to conduct the hearings. These hearings will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings. As a rule, oral presentations shall be limited to 10 minutes. Any additional testimony may be submitted in writing.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts

Verbatim transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at DOE's Freedom of Information Office Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., on January 21, 1983.

J. Hunter Chiles, III,

Director, Policy, Planning, and Analysis.

I. Developing the National Energy Policy Plan

The Department of Energy is beginning preparation of the fourth biennial National Energy Policy Plan (NEPP–IV), required by Title VIII of the Department of Energy Organization Act (Pub. L. 95–91). The President is scheduled to submit NEPP–IV to the Congress in the Spring.

To have the benefit of a broad range of viewpoints during development of the plan, the Department is requesting written comments and will hold a series of public hearings in February and March of 1983. The purpose of this paper is to provide background information for the hearings and to stimulate public discussion and comment on the issues.

The balance of this paper is divided into four sections. Section II provides a synopsis of key energy policy concepts. Section III describes the current U.S. energy situation. Section IV addresses both the near-term and longer term outlook regarding domestic energy production and consumption under current policies and the impacts of our international commitments. Section V discusses the areas of continuing concern on the Administration's energy policy agenda.

II. Current Policy

Energy is a significant component of every aspect of the U.S. economy and an important element of our national security. The United States has abundant and diverse energy resources; and, given an energy system that provides a balanced set of energy supplies and that is flexible enough to respond to market changes, these resources can be used efficiently and effectively to meet the Nation's needs.

A balanced, flexible energy system is the primary goal of this Adminstration's national energy policy, which is committed to assisting the market in efficiently distributing all of the Nation's energy resources. Under this policy, the Federal Government's role promotes economic recovery to reduce inflation and improve the availability of capital for new investments. Federal activity is focused on removing impediments to the market and conducting a program of basic and applied research that will increase the number of technological options available to non-Federal entities for implementation. The following are key elements of the Administration's strategy to achieve this goal:

- Reliance on the marketplace to obtain the most efficient and effective combination of energy production and consumption.
- Federal programs in long-range basic research, applied research, and technology development.
- An intensive program of economic regulatory reform to allow markets to respond more freely and effectively.
- A commitment to encourage a wide range of energy resources, including conservation and solar and other renewables, in addition to conventional resources.
- A program of environmental regulatory reform that will protect public health and safety while streamlining administrative processes, reducing delays, and balancing economic costs and effectiveness.
- Energy emergency preparedness that emphasizes market allocations, even during a supply disruption, and that reduces the Nation's economic vulnerability through a large Strategic Petroleum Reserve.

III. The Current Energy Situation

Energy consumption in the United States during 1982 totaled approximately 35 million barrels per day of oil equivalent (MMBDOE). Oil accounted for 42 percent of total energy use, natural gas, 26 percent; coal, 21 percent; and nuclear, hydropower, biomass, and other forms of energy, 11 percent.

About 86 percent of the energy consumed in the United States in 1982 was domestically produced, the highest level of domestic energy reliance in nearly a decade. The remainder was imported, mainly as oil (about 4.4 million barrels per day)—an import level significantly below the peak in 1977, when the United States imported about 25 percent of its energy needs. This decline in oil imports is the result of both a large decrease in domestic energy consumption and an increase in overall domestic production between 1977 and 1982.

In addition, the mix of fuels contributing to energy growth has changed in the past decade. Before the Arab oil embargo of 1973, growth came from oil and natural gas. Since then, however, virtually all the energy growth has come from coal and nuclear power.

Total energy use per dollar of gross national product (GNP) has shown a steady decline in the last decade. Between 1973 and 1982, the economy grew at a rate of about 1.8 percent per year, while total energy use dropped slightly. It could be argued that most of the decrease has resulted from higher oil and other fuel prices stimulating greater technological efficiency in the use of all fuels and more careful allocation and use of energy. Because changes to more energy-efficient capital stock are not rapid, this trend can be expected to continue. The average American car is more than 6 years old, and large industrial boilers are built to last 30 to 40 years. With continuing replacement of capital stock, energy use is expected to continue to grow more slowly than the output of the U.S. economy, even as economic recovery takes place. Although gains in energy efficiency are expected to continue in several fuel sectors, reductions in oil

consumption is an important barometer of overall performance. Imported oil has been the "swing" fuel—that is, the marginal source of supply—over several decades, and it will continue to be for the remainder of the century.

While the United States has become much less reliant on foreign energy supplies than it was a few years ago, it allies in the free world remain heavily dependent on energy imports, particularly petroleum. For example, Western Europe produced only 55 percent of its energy requirements in 1981; in the same year, Japan produced less than 20 percent of its needs. This situation is important for two reasons. First, the United States is only one of many participants in an integrated world oil market where price is a reflection of *worldwide* supply and demand and where rapid price changes have a significant impact on the economies of all countries that rely heavily on petroleum products. Second, despite decreasing levels of U.S. oil imports, the free world is expected to remain heavily dependent on imported oil supplies, particularly from the Persian Gulf, and thus vulnerable to the severe price shocks that can accompany sudden disruptions of these supplies.

Recognizing that oil supply disruptions impose enormous economic costs on consuming countries, the United States has taken a number of actions to protect against disruptions and to encourage similar actions by its allies. This Administration has nearly tripled the amount of oil stored in the Strategic Petroleum Reserve from 110 million barrels in January 1981 to a level of 300 million barrels in January 1983 (amounting to approximately 70 days of imports at present levels) and is proceeding with construction and fill to increase the size of the reserve to 750 million barrels. The President's veto of the Standby Petroleum Allocation Act permits reliance on the free market to allocate resources in the event of disruption and thus provides incentives for the private sector also to hold stocks.

In addition, the United States decreased its reliance on uncertain sources of oil in the Persian Gulf and North Africa and has increased supplies from other sources, most notably Mexico. Less than half the past year's imports came from OPEC, compared with almost three-quarters in 1977. Allies of the United States also have reduced purchases of OPEC oil. As a result, OPEC's portion of total world production has declined. Moreover, three allies (Japan, the Federal Republic of Germany, and the Netherlands) together hold more than 130 million barrels in government-owned stocks, and the German Government and industry jointly hold an additional 135 million barrels.

The United States initiated action with its allies in 1974 to create the International Energy Agency (IEA) oil-sharing system, which obligates member countries to maintain emergency oil reserves, to reduce oil demand in the event of a supply disruption or shortfall in the IEA as a whole or in individual countries, and to allocate the remaining shortfall among participants based on each member's historical consumption and net oil imports. Because IEA's definition of emergency reserves includes normal operating stocks, the United States has more than 2.5 times the minimum stocks required to fulfill its commitments.

Vulnerability to oil supply disruptions also is related to the level of spare crude oil production and refining capacity. Current spare crude oil production capacity, mostly in OPEC (but excluding Iran and Iraq), is estimated to be approximately 7 million to 10 million barrels per day—more than at any time in recent history.

IV. The Energy Outlook

Economic factors will be fundamental in determining long-term energy production and use, and both economic factors and the political environment ultimately will shape the Federal Government's response to the Nation's energy needs. The challenge facing the United States is to ensure a stable economic and regulatory climate that will provide sufficient flexibility for markets to response promptly and effectively to changes in the world energy economy.

The current situation and historical trends indicate that the energy outlook is not a question of energy "shortage"; it is an economic issue involving production, use and price of energy supplies. U.S. and worldwide reserves and emerging technologies are sufficient to meet estimated future energy demands as long as impediments to market activity do not restrict the availability and use of energy supplies. Nevertheless, the United States remains vulnerable to unexpected disruptions of a size that could cause prices to escalate rapidly and thus severely harm domestic and world economies.

In 1982, oil imports were 23 percent lower than in the previous year and 59 percent lower than the peak level in 1977. Long-term energy growth is expected to remain slower than economic growth. However, both U.S. and world inventories of oil are considerably lower than they were a year ago, and distillate fuel oil consumption in 1983 is expected to rise modestly above its 1982 level of 2.7 million barrels per day.

The following discussion is based on DOE's mid-range energy projections to the year 2000 which were prepared in July 1982 to initiate the development of NEPP–IV. It should be noted that energy futures are highly uncertain and are dependent on worldwide and domestic economics, policies, geology, and technology. Projections of energy futures vary depending on the assumptions made about a broad range of uncertainties. The projections below are neither predictions of what the future will be nor prescriptions for what it should be. Instead, they are provided as a point of departure for assessing current policy, and they are illustrative of a range of plausible future scenarios based on varying sets of assumptions.

Over the remainder of this century, U.S. energy consumption is expected to increase by about 25 percent while domestic energy production is expected to increase by about 35 percent. This supply trend reflects a changing energy supply mix that results in a projected decrease of about 40 percent in net U.S. energy imports between 1980 and 2000. A large share of this projected improvement results from an expected doubling of coal exports by the year 2000, which offsets 1.4 million barrels per day in the projected level of liquid fuel imports.

The trend away from oil use is expected to continue. While fluctuations in import levels will occur in line with changes in economic growth rates, oil use in the United States is expected to decline by about 10 percent between 1980 and 1985, while natural gas use is expected to remain stable and coal use to increase by about 20 percent. In addition, the use of nuclear power is expected to expand by 80 percent because many plants that are currently under construction will become operational. Effciency gains, such as those provided by improved gasoline mileage and increased use of insulation, will continue. Renewable energy sources, including hydropower, could develop from a currently modest contribution of about 6 percent of total energy consumption to become a more significant energy supply source in the long run. For the very long term, nuclear fusion is one of the most promising approaches to the generation of electricity.

Efforts to improve the flexibility of the marketplace and to increase national security while protecting the environment are progressing. During the past 18 months, the United States has made substantial headway in removing and streamlining regulations. However, significant portions of certain energy markets are not expected to be totally deregulated. Proposals for natural gas or electricity deregulation are concerned only with production—not with distribution levels where natural monopolies exist. Therefore, even with the major advantages that will accrue from deregulation of energy supply, these industries should not be expected to conduct their business as if they were operating in a totally free market environment. Interstate energy transmissions are still subject to the authority of the Federal Energy Regulatory Commission. State utility commissions will continue to set rates for intrastate electric power sales and natural gas distribution, and State and local ordinances will continue to affect decisions in areas such as coal slurry pipelines and the siting of new powerplants.

One of the benefits of eliminating market impediments such as price controls is reflected in higher levels of drilling and production of oil that have occurred since January, 1981, following the Administration's action to accelerate decontrol of oil prices. But market forces work in both directions, as the recent decline in the number of drilling rigs in use indicates, from a high of 4,520 active rigs in December, 1981, to a total of 2,696 active rigs in December, 1982. This decline is primarily caused by falling real (and nominal) oil prices and uncertainty about future prices as well as improved efficiency of rigs in operation. Despite these declines, the number of oil wells completed in 1982 increased 7 percent over 1981. Within this total, the number of exploratory oil wells completed in 1982 increased by 17 percent over 1981 levels.

In contrast, the number of exploratory gas wells completed in 1982 declined by 4 percent from 1981 levels. Deregulation of natural gas

prices would increase incentives to explore for an produce natural gas. Although the Natural Gas Policy Act of 1978 (NGPA) attempted to address the problems caused by more than two decades of natural gas price regulation, its complicated regulatory provisions have not allowed the natural gas market to adjust to changing market realities. Because market conditions have differed from those anticipated, NGPA pricing provisions have hindered price benefits from reaching consumers, have created unequal access to gas supplies, have encouraged inefficient production and use of gas, and have encouraged rigid contractual pricing provisions. As a result, NGPA will not fulfill its intended objectives. Because we cannot adequately anticipate future conditions, the only reasonable long-term solution is to allow the free market to determine price and allocation of energy supplies.

Although current projections show an increase in the use of nuclear energy, no new nuclear powerplants are expected to be ordered in the very near future, primarily because growth in demand is projected to be insufficient to warrant commitments to new baseload electricity-generation projects. In addition to lower demand growth, utilities are confronted with regulatory constraints on financing, uncertainties in permitting and licensing, and environmental, health, and safety considerations.

The Administration is committed to a policy that allows nuclear power to compete fairly in the marketplace. Recent passage of landmark nuclear waste management legislation is a major step toward removing the impediments to nuclear energy. In addition, the President's nuclear policy statement of October 8, 1981, calls for efforts to improve nuclear regulatory and licensing processes, to demonstrate breeder reactor technology and complete the Clinch River Breeder Reactor Plant, to eliminate the ban on reprocessing spent fuel and stabilize U.S. policy on commercial reprocessing, and to revitalize the electric utility industry.

Followup action are under way in all the areas identified in the President's statement. In addition to actions related specifically to nuclear power, the Department of Energy is near to completing a comprehensive study of the electric utility industry. Electricity is a price-controlled, universally-useable energy form where there seems to be little or no workable competition. It also is an exception to the rule insofar as the Administration does not propose general deregulation of electricity prices, which for the most part fall under the jurisdiction of the States. Rather, the challenge is to rationalize the existing regulatory scheme and to provide the necessary research to ensure efficient and stable electric supply and price stability in the future.

Coal production and synthetic fuel development also are important components of the U.S. energy future. Although coal is the nation's most abundant fossil fuel and an economic fuel for most new large boiler applications, it accounts for only about 20% of primary energy use. The coal industry has significantly increase production in response to market forces, but it is still operating below capacity partly because of the many regulatory barriers to using coal. The Federal regulatory process is being reformed to balance environmental concerns with economic considerations related to increased coal production and use. The Administration's objective also is to reduce constraints on coal use, especially the high costs and long leadtimes now required to build coal-fired plants, while ensuring adequate and continued safeguards to the environment and public health and safety. Government research on coal is being directed toward solving fundamental problems and toward generic research that may assist many companies in developing new equipment and processes.

The United States also has enormous hydrocarbon resources in the form of oil shale, tar sands, and heavy oil that can be processed into synthetic substitutes for conventional oil and gas. Responsibility for commercializing the technologies of alternative fuels rests with the private sector, with support from the Synthetic Fuels Corporation.

The use of renewable resources, including hydropower, is expected to continue to grow over the next decade, contributing as much as 9 percent of total U.S. energy demand in the year 2000. The federal government has an important role to play in encouraging a balanced energy program which includes the development of a range of energy technologies. With renewable resource technologies, as with other technologies, the Federal role is most appropriately focused on long-term research and development and on the resolution of technical issues.

The Administration's program for renewable energy resources emphasizes reliance on market forces and private investment initiatives. The elimination of large Federal subsidies for conventional fuels, together with the general increase in energy prices, enhances the competitive position of renewables. DOE's focus on long-range research and development encourages increased private sector initiatives to develop renewable systems.

Efforts to improve the efficiency with which our domestic resources are used provide not only domestic benefits but international benefits as well. According to the International Energy Agency (IEA) and individual countries themselves, Western Europe and Japan are expected to remain heavily dependent on imported energy supplies, particularly oil, through the end of the century. By the year 2000, one-third of Western Europe's energy requirements and 40 percent of Japan's needs will continue to be met by oil imports. This continuing high oil import dependence among our allies, coupled with the economic interdependence of the free world, will make the United States vulnerable to the economic impact of supply disruptions of instability in the world oil market despite its own low oil import dependence.

The United States shares IEA's concern that, over the longer term, increasing reliance on oil imports by Organisation for Economic Co-operation and Development countries and developing countries on oil imports could lead to strains in the world oil market. Even in the shorter term, a major reduction in the amount of oil available could result in sudden price increases that would have severe effects on free world economies. Conversely, a significant increase in the amount of oil on the market or a decline in demand for imported oil could result in changing circumstances and ultimately price decreases.

V. Areas Of Continuing Concern

A major issue of public policy concerns that area of the national economy where the marketplace either is artificially constrained or may not reflect the true value or cost of certain activities to society. The critical U.S. energy policy questions involve three key elements: the need for and consequences of Federal economic, health, and safety regulations; the appropriate role of the government in promoting basic and applied energy research; and the national security implications of energy supply. Despite recent progress, remaining impediments to market activity in both the United States and other industrialized countries can interfere with the efficient production, consumption, and trade of energy resources. Price controls, subsidies, and taxation policies prevent energy prices from reflecting market conditions and hinder the efficient allocation of energy supplies. Where the expected costs of potential long-run energy vulnerability outweigh domestic costs, such policies should be applied in a manner that entails the fewest impediments to free market operation.

In terms of domestic supplies, addressing the deficiencies in the Natural Gas Policy Act remains a critical issue. Achieving a more rational regulatory climate for electricity generation, as well as for increased use of renewable resources and fossil fuels, also remains an important objective.

The Federal Government has an important role to play in encouraging a balanced energy program that includes the development of a range of energy technologies. Efforts will continue to tailor this role to those areas that are most appropriate for Federal action. Recognizing government's continuing responsibility for basic and applied scientific research and development, Federal expenditures will continue to be directed toward a range of technologies that will help meet the Nation's energy needs in the mid- to long-term.

Reducing U.S. vulnerability to energy supply disruptions and assisting our allies to improve their energy security are critical issues. The Federal Government will continue to build the U.S. Strategic Petroleum Reserve and to encourage our allies to maintain oil stockpiles that can be drawn down in an emergency to reduce sharp increases in world oil prices and to stabilize the world oil market.

National security also can be enhanced by diversifying both domestic and international supplies. By decreasing our reliance on oil and increasing the use of other abundant resources, the United States can reduce its presence in the world oil market as a competitor to its more heavily dependent allies and developing nations. In addition, the Administration already has taken initiatives to assist certain allies with advanced nuclear

programs and adequate safeguards to use the significant energy potential of plutonium—an energy resource that many nations cannot afford to overlook. The use of domestic coal reserves also could be expanded, with the possibility that coal exports from the United States to Japan and Western Europe could be substituted for oil, thus reducinig their reliance on insecure Persian Gulf resources.

A number of these areas of continuing concern involve intense domestic controversy and will not be easily or quickly resolved. Ultimately, however, Americans will best be served by a market-based energy supply system that can flexibly respond to ever-changing needs, costs, and political impacts. In light of this, the Government must focus on removing unnecessary impediments to the production and distribution of abundant, secure, and economical energy supplies in the years to come.

Appendix

Value and Limitations of Projections

Projections of energy supply and energy demand for various dates in the future are of interest to those working in the energy field and to the general public. As long as both supply and demand are included and price assumptions are made clear, carefully prepared projections may be useful in assessing the future course of energy production and use. Yet even a "best estimate" projection is not a prediction, and it should not be described or regarded as one.

The projections in this section do not represent a statement of energy goals; and accordingly, the figures in this Appendix do not represent any policy view of the Department of Energy. Although projections try to take into account the most up-to-date and reasonable assumptions, actual events will inevitably will prove different than assumed. Therefore, while projections are useful in analyzing prospective problem areas, they cannot and should not be used as a blueprint for the future.

Comparison of Energy Projections to NEPP-III Energy Projections

Energy projections provided in this document reflect projections made in July 1982 and will be revised prior to the publication of NEPP IV. The 1982 projections incorporate revised assumptions about expected market adjustments and therefore differ somewhat from the projections made in the third National Energy Policy Plan (NEPP-III), which was published in July 1981. One of the most important differences between the two sets of projections is the set of world oil price path assumptions shown in Table 1. The July 1982 world oil price case is considerably lower than the NEPP-III case, especially during the early 1980's. Another important difference in assumptions between the two sets of projections is U.S. economic growth. Over the decade of the 1980's, the average growth rate is about the same for the July 1982 projections as for NEPP-III projections (about 2.8 percent per year), but the path of economic growth is different. When compared to NEPP-III, the July 1982 projections assume slower growth in the early 1980's and faster growth in the late 1980's.

Energy Consumption. Although total primary and end-use energy consumption do not differ greatly in the two sets of projections, considerable differences in the consumption of particular fuels—especially oil—do exist:

- Because of lower world oil prices and changed assumptions about industrial oil use, oil consumption by the year 2000 is 2.8 quadrillion Btu's (quads) higher in the July 1982 projections compared with NEPP-III.
- Oil consumption stays about the same in the residential/commercial sector and declines about 1.4 quads in the transportation sector. The decline in oil use in the transportation sector reflects recent data that shows a more rapid switch to automobiles with higher fuel efficiency than previously projected.
- The biggest change in oil use occurs in the industrial sector, where oil consumption is about 4.2 quads higher in the July 1982 projections compared to NEPP-III.
- The increase in oil consumption in the industrial sector results primarily from lower world oil prices. Also, oil consumption for industrial feedstocks was assumed to remain constant in NEPP-III, but in the July 1982 projections it is assumed to increase at a rate slightly lower than economic growth. Finally, oil consumption for small boilers and process heaters is assumed to decline more slowly from 1990 to 2000 compared to the assumption in NEPP-III.

Energy Conversion and Production. With regard to the projections of domestic energy production shown in Table 2, the July 1982 projections indicate that total production in the year 2000 is 90.0 quads, compared to 100 quads in NEPP-III. The 10.0-quad drop in year 2000 domestic production is accounted for by the following factors:

- 2.8 quads are from lower oil production (including natural gas liquids and shale oil) caused by lower world oil prices between 1982 and 1990, which results in about a 0.9-quad drop in enhanced oil recovery in 2000, a 0.7-quad drop in conventional production resulting from less exploration and development in the 1980's and a 1.2-quad drop in oil shale production.
- Natural gas production is about equal to the NEPP-III estimate.
- Much of the 10.0-quad decrease in domestic production results from lower projected production of coal, down about 5.0 quads from the NEPP-III projections for the year 2000. The drop in coal production results mainly from lower coal demand for synthetic oil and natural gas production (down about 4.1 quads for coal-based synthetic fuels).
- Increased oil consumption in the industrial sector (see Table 1), coupled with lower oil production, causes net oil imports in the July 1982 projections to increase to 4.6 million barrels per day by 2000 compared to a NEPP-III projection of only 1.2 million barrels per day by 2000.

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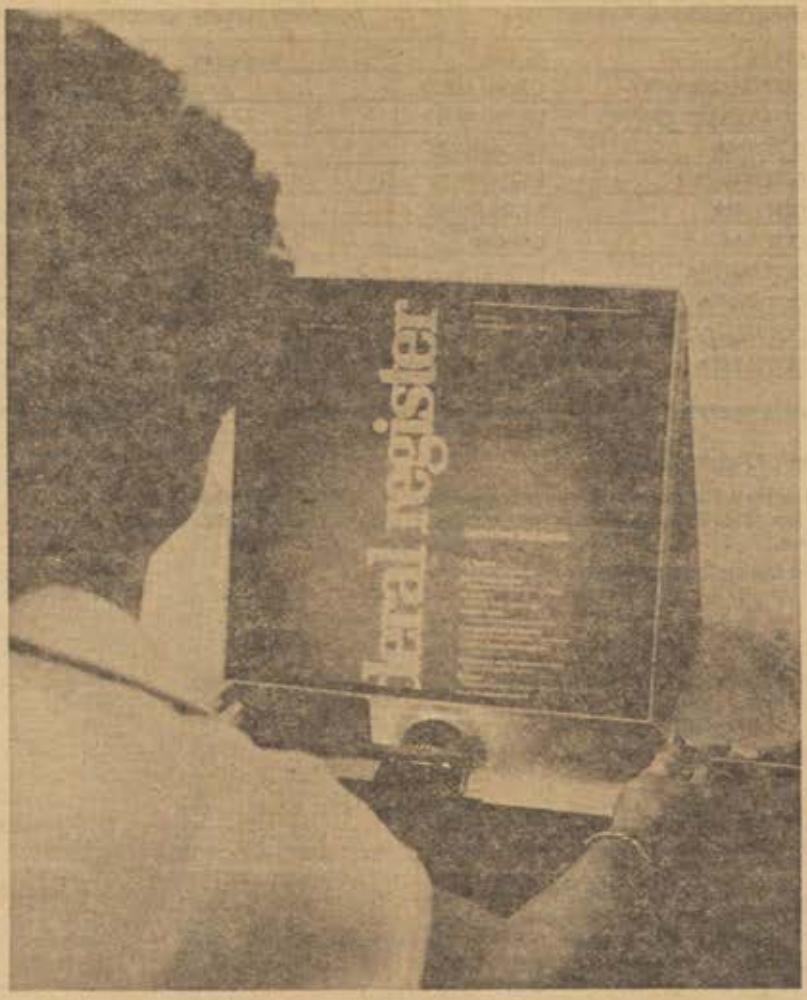

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