10-4-83
Vol. 48 No. 193
Pages 45219-45370

federal register

Tuesday
October 4, 1983

Selected Subjects

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

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Internal Revenue Service

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Coast Guard

Maritime Carriers
Federal Maritime Commission

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

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Presidential Documents

Title 3—

The President

Proclamation 5110 of September 30, 1983

National Alzheimer's Disease Month, 1983

By the President of the United States of America

A Proclamation

Alzheimer's disease, a devastating disease that affects the cells of the brain, is now regarded as the major form of old age "senility." While experts formerly believed that Alzheimer's occurred only in persons under 65, it now is recognized as the most common cause of severe intellectual impairment in older individuals. Presently, there is no established treatment that can cure, reverse or stop the progression of this disease, which is the cause of serious confusion and forgetfulness in about 1.5–2.5 million elderly persons in the United States.

Because there is an association of dementia with aging and because Americans are living longer, the numbers affected by this disease will continue to grow. As many as half of those in nursing homes suffer from this degenerative brain disease. Also, because of the decrease in life expectancy accompanying the illness, Alzheimer's is thought to be the fourth leading cause of death among adults of age 65 or more. Generally, from the time of onset, the disease reduces a person's remaining life expectancy by about one-half. It also deprives its victims of the opportunity to enjoy life and takes a serious toll on its victims' families and friends.

The emotional, financial and social consequences of Alzheimer's disease are so devastating that it deserves special attention. Science and clinical medicine are striving to improve our understanding of what causes Alzheimer's disease and how to treat it successfully. Right now, research is the only hope for victims and families.

To recognize that progress is being made against this disease and to show understanding and support for the individuals and the families and friends of those who are affected, the Congress of the United States, by Senate Joint Resolution 82, has authorized and requested the President to proclaim November 1983 as National Alzheimer's Disease Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of November 1983 as National Alzheimer's Disease Month. I call upon government agencies and the people of the United States to observe this month with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 83-27204
Filed 10-3-83; 10:14 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5111 of October 1, 1983

Twenty-Fifth Anniversary of the National Aeronautics and Space Administration

By the President of the United States of America

A Proclamation

America is justifiably proud of its accomplishments in aeronautics and in space research. In the 25 years since the National Aeronautics and Space Administration (NASA) was created by an Act of Congress, our country and the world have witnessed an unsurpassed record of scientific and technical achievements which has established the United States as the world leader in aerospace research and development.

In aeronautics, the National Aeronautics and Space Administration has conducted an effective and productive research and technology program that continues to contribute materially to the enduring preeminence of United States civil and military aviation. Two-thirds of the world's commercial aircraft fleet is American designed and built, accounting for some $10 billion in positive trade balance in 1982. NASA's wind tunnels, laboratories, and such experimental aircraft as the X–15 provide the solid essential research base for technology advancement and leadership.

In space, the National Aeronautics and Space Administration has conducted one of the most dramatic of all human endeavors: the Apollo Project which, 14 years ago, landed men on the Moon for the first time and returned them safely 240,000 miles to Earth. In addition, remotely controlled spacecraft have been dispatched on missions extending from near Earth orbit to the far reaches of the solar system. Through the Viking mission, the winds of Mars have been measured; through the Voyager mission, volcanoes on a moon of Jupiter have been observed and the rings of Saturn have been counted. More information has been gathered about the cosmos in 25 years than had been gleaned in all the preceding centuries. In the Space Shuttle, first launched in 1981, America now has a sophisticated new system for space research—a machine that delivers payloads routinely to orbit; allows humans to work in space; returns crew, experiments, and unrepairable spacecraft to Earth; and is reconditioned within a short period for its next launch. The Shuttle is booked through 1988, an indication of how utilitarian space has become. The government uses it to preserve the national security; the private sector uses it for commercial advantage; NASA uses it in a search for knowledge, not just of the beyond, but applied knowledge which will shed light on conditions and circumstances critical to the Earth and its inhabitants.

Significant benefits have already been derived from space research. For example, communications satellites now provide worldwide communications to well over 100 countries. Communications satellites have profoundly changed modern life, making events immediate, impacts instantaneous, and instruction possible almost anywhere. Future benefits will be even more impressive. The future looks bright, and NASA will be an important part of it.

The government-industry-university partnership, pioneered by NASA, has worked exceedingly well in aerospace research, providing a model to others on how the different sectors of American society can work together. This effort reflects America at its best: peacefully seeking knowledge and enlight-

enment, advancing technology for mankind's benefit, and organizing resources to accomplish great missions.

In order to recognize the enormous achievements by the National Aeronautics and Space Administration, the Congress has, by House Joint Resolution 284, authorized and requested the President to proclaim October 1, 1983, as the "Twenty-fifth Anniversary of the National Aeronautics and Space Administration."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 1, 1983, as the "Twenty-fifth Anniversary of the National Aeronautics and Space Administration." I call upon the people of the United States to observe that occasion with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-27205
Filed 10-3-83; 10:15 am]
Billing code 3195-01-M

Rules and Regulations

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

Completion of Regionalization of the Operator Licensing Function by Assignment of the Function to Regions IV and V

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations relating to operator licenses to provide information concerning the futher implementation of NRC's regional licensing program. This amendment states that authority and responsibility for the issuance of licenses for operators and senior operators of licensed nuclear reactors located in Regions IV and V have been assigned and delegated to the Regional Administrators of Regions IV and V. This amendment is necessary to inform licensees, operators, applicants, and the public of current NRC organization and practice.

EFFECTIVE DATE: October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Don H. Beckham, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone (301) 492–4868.

SUPPLEMENTARY INFORMATION: In further implementation of its regionalization program, the Commission has delegated to the Regional Administrators of Regions IV and V authority and responsibility pursuant to the regulations in 10 CFR Part 55 to issue and renew licenses for operators and senior operators of nuclear reactors licensed under 10 CFR Part 50 and located in these regions. This amendment completes implementation of assignment of the operator licensing function to the regions.

The general delegation of authority for the Regional Administrators is described in NRC Manual Chapter 0128. Pursuant to the general delegation of authority, the Executive Director for Operations and the Director of Nuclear Reactor Regulation on July 1, 1983, for Region I and November 22, 1982, for Regions II and III assigned and delegated to the Regional Administrators for these Regions the responsibility under 10 CFR Part 55 for licensing operators of nuclear reactors licensed under 10 CFR Part 50 and located in Regions I, II, and III. Now, this same responsibility has been assigned to the Regional Administrators for Regions IV and V. A copy of the delegation of authority has been placed in the Commission's public document room at 1717 H Street, NW., Washington, D.C. 20555, and also at the Region IV Office, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011, and the Region V Office, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596, where it is available for inspection and copying by the public. A final rulemaking for Region I, published July 21, 1983 (48 FR 33243), and for Regions II and III, published December 22, 1982 (47 FR 56984), reflected assignment of this same authority and responsibility to the administrators of these regions. The December rulemaking also specified where an applicant for a license could obtain necessary forms and file applications.

The revised regulations are intended to inform licensees and the public of current NRC practices and organization.

Since the amendments to Part 55 are nonsubstantive and relate to matters of agency organization and procedure, the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and good cause exists for making the amendments effective upon publication without the customary 30-day waiting period.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval numbers 3150–0018 and 3150–0024.

List of Subjects in 10 CFR Part 55

Manpower training programs, Nuclear power plants and reactors, Penalty, and Reporting and recordkeeping requirements.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Part 55 are published as a document subject to codification.

PART 55—OPERATORS' LICENSES

1. The authority citation for Part 55 continues to read as follows:

Authority: Secs. 107, 161, 68 Stat. 939, 948, as amended (42 U.S.C. 2137, 2201); secs. 201, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sec. 55.40 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 55.3 and 55.31 (a)–(d) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and § 55.41 is issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 55.5, new paragraphs (b) (5) and (6) are added; and paragraph (b)(1) is revised to read as follows:

§ 55.5 Communications.

* * * * *

(b)(1) The Commission has delegated to the Regional Administrators of Regions I, II, III, IV, and V authority and responsibility pursuant to the regulations in this part for the issuance and renewal of licenses for operators and senior operators of nuclear reactors licensed under 10 CFR Part 50 and located in these regions.

* * * * *

(5) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region IV and any inquiry, communication, information, or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region IV must be submitted by mail or in person to the Regional Administrator, Region IV, U.S. Nuclear Regulatory Commission, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. The Regional Administrator of Region IV or his designee will transmit to the Director of Nuclear Reactor Regulation any matter that is not within the scope of the

Regional Administrator's delegated authority.

(6) Any application filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region V and any inquiry, communication, information, or report relating to matters subject to the regulations in this part and involving a nuclear reactor licensed under 10 CFR Part 50 and located in Region V must be submitted by mail or in person to the Regional Administrator, Region V, U.S. Nuclear Regulatory Commission, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596. The Regional Administrator of Region V or his designee will transmit to the Director of Nuclear Reactor Regulation any matter that is not within the scope of the Regional Administrator's delegated authority.

Dated at Bethesda, Maryland, this 21st day of September 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-27029 Filed 10-3-83; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 31]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration Administrator has approved changes to administrative authorities, including monetary limitations and personnel (positions), in 13 CFR 101.3-2, Part X, of the Agency's Delegations of Authority for Field Offices. These changes include increased purchasing, rental, and contracting authority for officials in Regions II, V, VII, and IX who have completed prescribed training courses.

EFFECTIVE DATE: October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416. Telephone number (202) 653-8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3-2 is amended as set forth below:

1. To revise 13 CFR 101.3-2 Part X to read as follows:

* * * * *

Part X—Administrative

1. Authority to purchase, rent, or contract for equipment, services and supplies for the agency in amounts not to be exceeded.

a. Purchase Reproductions of Loan Documents. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. Attorneys in foreclosure cases.

b. Office Supplies and Equipment. To purchase office supplies and equipment and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of the Chapter.

c. Rental of Motor Vehicles. To rent motor vehicles when not furnished by this Administration.

d. Rental of Conference Space. To rent temporarily SBA conference space located within the respective geographical jurisdictions.

e. Contract for Services. To contract for services for the agency pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that Chapter.

	Open market	Federal schedule (FSS)
(1) Regional Administrators, Reg. II, VII, and IX	$10,000	(1)
(2) Regional Administrator, Reg. V only	10,000	$10,000
(3) Regional Administrators, Reg. I, III, IV, VI, VIII, and X	2,500	2,500
(4) Deputy Regional Administrators, Reg. II, VII, and IX	10,000	(1)
(5) Deputy Regional Administrator, Reg. V only	10,000	10,000
(6) Deputy Regional Administrators, Reg. I, III, IV, VI, VIII, and X	2,500	2,500
(7) Assistant Regional Administrators for Administration, Reg. II, VII, and IX	10,000	(1)
(8) Assistant Regional Administrator for Administration, Reg. V only	5,000	5,000
(9) Assistant Regional Administrators for Administration, Reg. I, III, IV, VI, VIII, and X	2,500	2,500
(10) Budget Officers, Reg. II and VII	10,000	(1)
(11) Office Services Supervisor, Reg. VII only	10,000	(1)
(12) Office Services Supervisor, Reg. IV only	2,500	2,500
(13) Regional Management Analyst, Reg. IX only	10,000	(1)
(14) Office Services Managers, Reg. V and VIII	2,500	2,500
(15) Office Services Clerk, Reg. II only	10,000	(1)
(16) Support Services Specialist, Reg. X only	2,500	2,500
(17) District Directors	2,500	2,500
(18) Deputy District Directors, except Reg. VIII	2,500	2,500
(19) Branch Managers, except Reg. VIII	2,500	2,500

[1] Unlimited.

2. Use of Seal of the Small Business Administration. To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on files; and to cause the Seal of the Small Business Administration to be affixed to all such certification.

a. Regional Administrators.
b. District Directors.
c. Branch Managers.

(Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634)

Dated: September 28, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-26946 Filed 10-3-83; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 101

[Rev. 2—Amdt. 32]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: A proposed change to the Delegations of Authority for Field Offices was received from the Regional Administrator in Region X. This change affects Part III, Section C, Surety Guarantee of 13 CFR 101.3-2 and was approved.

In anticipation of increased numbers of guarantee applications, the Region X Assistant Regional Administrator for Finance and Investment (ARA/F&I) and Surety Bond Coordinator are delegated approval authority to $1,000,000 and $500,000 respectively.

EFFECTIVE DATE: October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416. Telephone Number (202) 653-8538.

SUPPLEMENTAL INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended as set forth below:

§ 101.3–2 [Amended]

* * * * *

1. Part III, Section C, paragraph 1, existing subparagraphs c, d, and f are changed as follows:

c. Assistant Regional Administrator/F&I, except Atlanta and Seattle R.O.'s . . . . . $500,000.

d. Assistant Regional Administrator/F&I, Atlanta and Seattle R.O.'s only . . . . . $1,000,000.

f. Surety Bond Coordinator, Atlanta and Seattle R.O.'s only . . . . . $500,000.

(Sec. 5(b)(6) of the Small Business Act, 13 U.S.C. 634).

Dated: September 21, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-26958 Filed 10-3-83; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 123

[Rev. 10]

Disaster Loans

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Part 123 of the Agency's regulations relating to disaster loans has been rewritten to improve the format and to incorporate legislative changes.

This final rule was published in proposed form on May 27, 1983, [48 FR 23836] for comment. No written comments were received, and several oral comments were accommodated, as set forth below.

EFFECTIVE DATE: This revision applies to disasters occurring on or after October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416; 202–653–6879.

SUPPLEMENTARY INFORMATION: This final rule corrects typographical errors contained in the Notice of Proposed Rulemaking, makes several minor editorial changes without substance (e.g., for clarity) and incorporates the following substantive changes:

Section 123.6 was liberalized to make clear that SBA will accept late filings if such lateness resulted from substantial causes beyond the control of the applicant. The proposal would have required extreme hardship, but would not have required that the cause be substantial.

Section 123.25(b) was broadened to add the option that a reduced but appropriate facility (within the applicant's repayment ability) would also be financed. The proposal did not allow for this option.

Section 123.28(a) has been amended to make clear that normal yields for each crop determine partial crop loss and test minimum loss criteria. The proposal implied, but did not express, the same thought.

Section 123.41(a) has been amended to add to substantial economic injury from a declared disaster the alternate injury from federal actions (e.g. federal construction).

Section 123.41(d) has been clarified to the effect that the loan maximum applies to each disaster injuring an applicant and not to each applicant.

Regulatory Impact

SBA has determined that this revision taken as a whole does not constitute a major rule for the purposes of Executive Order 12291. In this regard we are certain that the annual effect of this rule on the economy will be less than $100 million. In addition, this rule will not result in a major increase in costs or price for consumers, individual industries, Federal, State or local government agencies or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, or innovation.

For the purpose of compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, certain provisions of this rule may have significant economic impact on a substantial number of small entities. The followiing analysis of those provisions is provided within the context of the review prescribed by the Regulatory Flexibility Act (5 U.S.C. 604).

1. The final rule, § 123.24(c), requires damage to five small concerns in the same county or other subdivision of a State, as did the proposed rule, before the governor of a State may request disaster assistance. Prior procedure required damage to five small concerns in a given State. This will make declaration of an economic injury disaster more difficult and will restrict such a declaration to the political subdivision of a state in which the injury actually occurred. In this way SBA's assistance will be more accurately focused than heretofore. This provision will be of general applicability in all economic injury disaster situations. No comments were received, and the rule is adopted, as proposed. The statutory basis of this rule is 15 U.S.C. 636(b). The only significant alternative would have been to leave the rule unchanged. The attendant disadvantage of that alternative was that it authorized potential inappropriate uses of SBA disaster assistance by allowing such assistance to be available to areas of a state which were unaffected by the disaster as long as the state itself contained the requisite number of economically injured small concerns.

2. Section 123.28 establishes a computation formula for farm losses, and restricts compensatory loans to a properly measurable loss amount. Since such losses will be financed by SBA only in cases ineligible for FmHA assistance, this formula will be rarely used. The final rule closely follows the proposed rule, on which no comments were received, with a clarification that partial crop losses must be determined by reference to normal yields. No alternatives are believed to exist. The legal basis for this rule is 15 U.S.C. 636(b).

3. Section 123.41 provides a definition of the statutory term "substantial economic injury" for the purpose of qualification for disaster benefits. This rule represents a codification of the meaning SBA has previously attached to the term in its Standard Operating Procedure. The effect of the definition is to qualify entities which have suffered such injury for disaster benefits.

No comments were received, and no alternatives considered. The statutory basis for this rule is 15 U.S.C. 636(b)(2).

The following sets forth the collection of information or recordkeeping requirements which have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act and have received approval numbers as listed:

Subsection		OMB Approval Numbers
§ 123.6	Where and how to apply	3245–0017; 3245–0018
§ 123.11	Reconsideration	3245–0122
§ 123.14(a)	Civil Rights regulations	3245–0066
§ 123.14(b)	Construction loans	3245–0076
§ 123.17(a)	Conditions applicable to all loans.	3245–0110

Subsection		OMB Approval Numbers
§ 123.22(g)(iii)	Eligible Physical Loss	3245-0124
§ 123.24(b)	Small Business Administration Disaster Declaration.	3245-0121; 3245-0136
§ 123.24(c)		
§ 123.26(e)	State grants	3245-0017; 3245-0018
§ 123.28(a)	Computation of Loss	3245-0128
§ 123.41(a)	Substantial Economic Injury.	3245-0017

List of Subjects in 13 CFR Part 123

Disaster assistance, Reporting and recordkeeping requirements, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 631 et seq.), Part 123, Title 13 of the Code of Federal Regulations is revised as follows:

PART 123—DISASTER—PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

Sec.

Authority: Section 5(b)(6) Small Business Act, 15 U.S.C. 631 et seq.

§ 123.1 Explanation of regulations.

(a) *Programs covered.* This part covers the disaster programs authorized under subsection 7 (b), (c) and (f) of the Small Business Act, 15 U.S.C. 636 (b) and (c), and is published pursuant to Sec. 5(b)(6) of the Act, 15 U.S.C. 634(b)(6).

Subpart A includes regulations common to all disaster programs.

Subpart B includes regulations governing physical disaster loans, including loans to Major Sources of Employment.

Subpart C includes regulations for loan programs designed to alleviate economic injury caused by physical disasters and by action of the Federal government.

(b) *Emergency Changes.* Because of the emergency nature of the programs covered by this part, particularly the physical disaster loan program in Subpart B, the regulation cannot anticipate all the contingencies, problems and needs which may arise in any given situation. SBA therefore advises that the regulations under this Part must be and are subject to change without advance notice and publication in the **Federal Register**. SBA will, however, make every effort to publicize changes of substance and procedure by whatever means practicable under the circumstances, including, but not limited to press releases to newspapers, radio and television stations, posting notices in public places, and by direct mailings (when possible) to affected concerns or persons. Publication in the **Federal Register** of appropriate regulatory changes will follow as soon as possible.

(c) *Captions.* Captions are inserted for the reader's convenience only, and are not a part of these regulations.

Subpart A—Conditions Applicable To All Loans Under This Part

§ 123.2 Introduction.

SBA is authorized to make or to guarantee loans as necessary or appropriate to victims of physical disaster or of economic injury caused by such disaster, or by Federal action. No economic injury disaster loans or Federal action economic injury loans are authorized for applicants able to obtain Credit Elsewhere (see definition in § 123.22). No person who has been convicted of a felony during and in connection with a riot or civil disorder shall be permitted, for a period of one year after the date of the conviction, to receive any benefit under any law of the United States providing relief for disaster victims [Pub. L. 90-448, Sec. 1106 (e); 5 U.S.C. 7313 note].

§ 123.3 Type of loans.

All financial assistance programs implemented in this Part may be made as direct loans or in participation with a financial institution on an immediate or guaranteed basis as defined in §§ 122.7, 122.8 and 122.10 of this chapter, and SBA's share in an immediate participation or guaranteed loan may not exceed 90 percent of the balance of such loan outstanding at the time of disbursement.

§ 123.4 Financial institutions.

Financial institutions under this part are those which meet the criteria set forth in § 120.4 of this chapter.

§ 123.5 Fees and charges.

(a) *Closing fees.* No closing fee will be charged to a borrower with respect to any loan authorized in this Part.

(b) *Service fees.* A financial institution, while it services an immediate participation loan, or a deferred participation loan (guaranty) where SBA has purchased its portion, may not charge the borrower a fee for such service. However, for loans made under 7(b)(3) of the Small Business Act, participating institutions may deduct, only out of interest collected for the account of SBA, and only so long as such participating institution is servicing the loan, a service fee of three-eighths of one percent per annum where SBA's share is 75 percent or less, or of one-fourth of one percent where SBA's share is more than 75 percent, computed on the unpaid principal balance of SBA's share of the loan. Such fee shall not be added to any amount which the borrower is obligated to pay under the loan.

(c) *Guaranty fee.* A guaranty fee will be charged by SBA to the lender with respect to all physical disaster and economic injury loans, as set forth for business loans in Part 120.

§ 123.6 Where and how to apply.

A single copy of an application on a form provided by SBA (OMB Approval No. 3245-0017 or 3235-0018) may be filed with the district office, branch office, disaster branch office or disaster area office, as appropriate. If a financial institution is participating, two copies of

the application should be filed with such institution, and it will forward one copy to SBA. An applicant must complete a disaster loan application and submit such additional information as SBA may require. This information should be submitted to the nearest SBA disaster or other field office, preferably in person, within the time limit established in the applicable disaster declaration for the filing of applications. SBA will accept applications after such time limit only when SBA determines that the late filing resulted from substantial causes essentially beyond the control of the applicant.

§ 123.7 Obtaining loan funds.

(a) *Loan authorization.* When a loan has been approved, a loan authorization is issued, which will specify the conditions the borrower must meet.

(b) *Loan Closing.* If loan is a direct loan, the applicant will be notified by SBA of the conditions and loan closing procedure Otherwise, the participating lender will arrange the closing.

§ 123.8 Terms and amounts of loans.

(a) *Loan terms.* No loans made under this part, including renawals and extensions thereof, may be authorized for a term in excess of 30 years [see also§ 123.12(b)], and on physical disaster loan made to a business able to obtain Credit Elsewhere (as defined in § 123.22) may be authorized for a term exceeding three years. Maturity will be established on each loan on the basis of the need of the borrower and the borrower's ability to repay. Repayment ability according to the loan terms must be determined by SBA. Generally, equal monthly payments of principal and interest are required, except that borrowers with seasonal or fluctuating income may be accorded other payment terms. Payments will normally begin no later than 5 months from the date of the note. There is no penalty for prepayment of a direct loan.

(b) *Loan amounts.* Subject to the limitations and conditions imposed by §§ 123.13, 123.25 through 123.28 and 123.41 through 123.43, loans under this Part may be in amounts equal to 100 percent of the Eligible Physical Loss, as defined in § 123.22, if the applicant is a Homeowner, and 85 percent if the applicant is a business or otherwise.

§ 123.9 Interest Rates.

Specific interest rates for physical disaster home loans are set forth in § 123.26, and the rate for physical disaster and economic injury business loans in § 123.27 and § 123.41, respectively. The applicable rate of interest shall appear in the Disaster Declaration and shall be that rate which is in effect on the Commencement Date, as defined in § 123. 22.

§ 123.10 Collateral.

The Small Business Act contains no specific requirements with respect to collateral as security for disaster or economic injury loans, nor has SBA established any rigid rule in regard to collateral. However, SBA may require applicants to pledge whatever collateral is available.

§ 123.11 Reconsideration.

(a) *Where to apply.* Any applicant whose request for a loan is declined has the right to present information to overcome the reason(s) for decline and to request reconsideration (OMB Approval No. 3245–0122). However, any decline due to size can only be appealed in accordance with the procedures set forth in Part 121 of the Regulations.

(b) *How to apply.* A request for reconsideration must be in writing and received by the office that declined the original request, within 6 months of the initial decline. After 6 months a new application is required.

(c) *Content of request.* The written request for reconsideration must contain all significant new information that the applicant relies on to overcome the reason(s) for decline. The request for reconsideration of a business loan must also be accompanied by current business financial statements.

(d) *Alternate reasons for decline.* The specification by SBA of any reason for denial of a loan request shall not constitute a waiver of SBA's right to deny such request for any other reason.

(e) *Further reconsideration.* An applicant whose request is declined on reconsideration has the right to request further reconsideration at the next higher office. The "next higher office" in the case of a branch office is the Area Processsing Center. In the case of the Area Processing Center it is the Area Director's office.

(f) *Contents of requests for further reconsideration.* All request for reconsideration at the next higher office must be in writing and received by the office that processed and declined the prior reconsideration within 30 days of the decline action. The request must state that the applicant is seeking action at the next higher office and must contain the applicant's written justification for believing that the decline action should be reversed.

(g) *Final decision.* The decision of the Area Director is final unless: (1) The Area Director does not have authority to approve the requested loan, or (2) the Area Director refers the matter to the Deputy Associate Administrator for Disaster Assistance, or (3) the Deputy Associate Administrator for Disaster Assistance, upon a showing of special circumstances, requests the Area Director's office to forward the matter to the Central Office for final consideration. "Special Circumstances" as used herein may include, but are not limited to, policy reconsideration or reevaluation by elements of the Agency, alleged improper acts by SBA personnel or others, conflicting policy interpretation between two area offices or other such considerations.

§ 123.12 Loan administration, extension and liquidation.

(a) *Loan administration.* Immediate participation and guaranteed loans closed by participating lenders will be administered by such lenders. All direct and immediate participation loans closed by SBA will be administered by SBA. Loans are administered and, if necessary, liquidated by sale of collateral and other legal recourse against borrower and guarantors according to the procedures and policies of §§ 122.20 through 122.25 of this chapter, as applicable.

(b) *Extensions.* Extensions of maturity or renewals of loans are limited to such periods of time as appear necessary to avoid the forced liquidation of loans. Generally, several short extensions will be granted rather than one lengthy one. Subject to § 123.8(a), extensions are granted only when it appears that no other course of action will result in a greater or earlier recovery. The maturity of SBA's share of physical disaster repair and replacement loans to Homeowners and small concerns may be extended and payments of principal and interest may be suspended for periods not to exceed five years, if the related disaster declaration was made by the President or the Secretary of Agriculture, and SBA finds such action necessary to avoid severe financial hardship. Physical disaster and economic injury loans may also be extended or renewed for additional periods not to exceed ten years beyond the original maturity on request of the loan participant, to avoid a default, and upon agreement by the borrower to repay SBA for funds expended in connection therewith, if such extension or renewal will aid in the orderly liquidation of such loan, and if the original maturity of such loan did not exceed twenty years. For additional moratorium provisions, see Part 131 of this chapter.

(c) *Split interest rates.* On loans made under prior legislation at split interest

rates, all repayments of principal on SBA's share shall be applied first to portions of loans carrying the lowest interest rate.

§ 123.13 Requirements applicable to flood-prone areas.

(a) *Community participation in flood insurance.* SBA has no authority to make loans in special hazard areas (flood, mudslide and flood-related erosion areas) defined by the Federal Insurance Administration unless the local community participates in the Federal flood insurance program, or less than a year has elapsed since the community was formally notified of the identification of a special hazard area within its boundaries. (See 44 CFR, Part 64.)

(B) *Maintenance of flood insurance.* Eligible applicants in such special hazard areas must purchase flood insurance in accordance with the requirements of Part 116, Subpart B of this chapter. Failure to maintain or obtain flood insurance as required by SBA will result in ineligibility for future SBA financial assistance. This requirement is in addition to other insurance requirements specified in the loan authorization.

(c) *Floodplains and Wetlands.* For special requirements in such areas, see Subpart D, Part 116 of this chapter.

§ 123.14 Civil rights requirements.

(a) *Civil rights regulations.* Loan recipients (other than Homeowners) are subject to the civil rights requirements of Parts 112 and 113 of this chapter, and of Part 117, when adopted. The age of an applicant will not be considered in determining whether a loan should be made, or the amount of the loan, provided the applicant has the legal capacity to contract. The requirements of the Equal Credit Opportunity Act, 15 U.S.C. 1691 apply to all SBA loan recipients. See 12 CFR Part 220 and the Equal Credit Opportunity provision of SBA Form 1261 (OMB Approval No. 3245–0066).

(b) *Construction loans.* If loan proceeds in excess of $10,000 are to be used for the alteration, rehabilitation, construction, conversion, extension or repair of buildings or real property, applicants must sign and comply with "Applicant's Agreement of Compliance," SBA Form 601. (The reporting and recordkeeping requirements described in SBA Form 601 are approved under OMB Numbers 1215–0072 and 3245–0076.)

§ 123.15 Lead based paint prohibition.

Loan recipients are subject to the prohibition against the use of lead based paint set forth in Part 116, Subpart C of this chapter.

§ 123.16 Loans to agricultural enterprises.

Agricultural enterprises means those businesses engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other similar farming and agriculture-related industries. An agricultural enterprise is eligible for loan assistance under Subpart B (physical disaster) to repair or replace property other than residences and personal property only if it is not eligible for emergency loan assistance from the Farmers Home Administration (for example, because of (a) alien status; (b) being a corporation, partnership or cooperative not primarily engaged in farming; or (c) being owned by an individual who does not operate the farm). Applicants declined by FmHA for reasons other than ineligibility, (e.g., failure to meet physical damage threshold) unfavorable credit determination, or lack of repayment ability are not eligible for SBA disaster loan assistance. All agricultural enterprise applicants to SBA must present a letter of referral from FmHA which specifies the particular reason for ineligibility. See §§ 123.28 and 123.42 for economic injury disaster loans.

§ 123.17 Books and records; SBA access.

(a) *Conditions applicable to all loans.* As a condition of the receipt of a loan under this part, the borrower shall maintain complete records of all transactions financed by the loan proceeds, including copies of all contracts and receipts, for a period of three years after the final loan disbursement, and during the same period, shall make those records available upon request for inspection, audit and reproduction by SBA or other authorized Government personnel during normal business hours (OMB Approval No. 3245–0110).

(b) *Conditions applicable to loans to businesses and agricultural enterprises.* As a condition of the receipt of a loan under this part, the borrower shall maintain current and proper books of account for the most recent five years in a manner satisfactory to SBA and any financial institution participating in the loan until three years from the date of maturity, including any extensions made pursuant to § 123.12(b), or from the date of the loan is paid in full, whichever occurs first. This shall include borrower's financial and operating statements, insurance policies, tax returns and related filings, records of earnings distributed and dividends paid, and records of compensation to officers, directors, holders of 10% or more of borrower's capital stock, partners and proprietors. The borrower shall make available to SBA or other authorized Government personnel upon request all such books and records for inspection, audit and reproduction during normal business hours. The borrower shall also permit SBA and any participating financial institution to inspect and appraise borrower's assets.

Subpart B—Physical Disaster Loans

§ 123.20 Introduction.

This subpart contains the regulations specifically dealing with loans made to repair or replace property damaged by a physical disaster. (For regulations applicable to all loans under this Part, see Subpart A.) This Subpart sets forth the procedures by which a Disaster Area is declared, and assistance made available by SBA to disaster victims. Conditions affecting all loans are set forth first, then special conditions for home, business, agricultural loans, loans to Major Sources of Employment, and loans to privately owned colleges and universities.

§ 123.21 Physical disaster loan authority.

(a) *Loans to victims.* SBA is authorized to make, or to participate (on an immediate or guaranty basis) in, loans to victims of floods, riots, civil disorders or other catastrophes, to repair, rehabilitate or to replace physically damaged or lost property when a physical disaster declaration has been issued.

(b) *Major employer.* For loans to any Major Source of Employment, see § 123.29.

(c) *Flood-prone areas.* For limitations on the foregoing authority, see § 123.13 and Subpart B, Part 116 of this chapter.

§ 123.22 Definitions.

Defined terms are capitalized throughout this subpart.

Adjusted Treasury Rate: The rate of interest determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the average maturities of such loans made under Section 7(b) of the Act, plus an additional charge of not to exceed one percent per annum as determined by the Administrator, and adjusted to the nearest one-eighth of one percent.

Commencement Date: The beginning of events of a catastrophic nature culminating in a Disaster. Such Commencement Date will be stated in the relevant Disaster declaration [see also § 123.24(a)].

Credit Elsewhere: The availability, in the judgment of SBA, of sufficient credit from non-Federal sources on reasonable terms and conditions, taking into consideration prevailing rates and terms in the community in or near where the concern transacts business or the Homeowner resides, for similar purposes and periods of time.

Disaster: This term means, generally, a single sudden physical event of catastrophic nature (such as floods, riots or civil disorders) which causes severe damage.

Disaster Area: An area which has been declared or designated as such because of damage suffered as a result of a physical disaster;

Eligible Applicants: A Homeowner, business of any size, nonprofit corporation, religious or eleemosynary institution, or other private organization (including a privately owned college or university) which has suffered physical damage as a result of its location in a Disaster Area is eligible to apply for assistance.

Eligible Physical Loss: (a) A physical loss is necessary to establish loan eligibility under this Subpart B. It must be verified by SBA. Loss may be claimed only by the owner(s) (or the lessee(s) of the property if the lease requires the lessee to repair or rebuild) at the time of the disaster. Beneficial ownership as well as legal title (real or personal) may be considered in determining who suffered the loss, except that an equitable interest resulting from a mortgage or deed of trust will not make the holder of such interest eligible.

(b) Losses shall not be eligible

(1) when a substantial (more than 50%) voluntary change of ownership occurred after the disaster, and no contract of sale existed at the time of the disaster;

(2) when the replacement value is extraordinarily high, and is not easily verified, such as in the case of the value of antiques or hobby collections;

(3) to the extent that such loss is covered by insurance, grants, gifts to replace personal property (such as from the American Red Cross), or other compensation, if all or part of such compensation is available for repair or replacement. Such compensation must either be deducted from the claim, or assigned (paid) to SBA to reduce the outstanding balance of the loan, since Federal law prohibits duplication of benefits. (Borrowers must notify SBA of any amounts so received (OMB Approval No. 3245–0124) and must apply them to the outstanding loan balance in inverse order or maturity.) However, any financial assistance supplied by an Individual and Family Grant Program (Federal Emergency Management Agency) solely to meet an emergency need pending processing of an SBA loan may be repaid out of SBA loan proceeds, provided the funds were used for eligible SBA loans purposes. Condemnation awards shall be taken into consideration in determining the amount of the loss to the extent that such awards are available for replacement purposes.

(4) when the victim is deemed to have assumed the risk, (for example, when property is located within a flowage easement, or in an area between a river and a levee without a business need therefor), or where flood insurance was previously required but not purchased, or was purchased and not maintained.

(5) if the property damaged constitutes a secondary home. The loss may be considered a business loss if the property is rented and if the property would not constitute a "residence" under the provisions of section 280A of the Internal Revenue Code.

(6) if the property is a vehicle of the type normally used for recreational purposes, such as motor homes, aircraft, boats, etc. The loss may be included in a business applicant's loan if the applicant submits evidence of its use in the business.

(7) if the property consists of cash or securities.

Homeowner: This term includes owner-occupants and lessees (renters) of residential property and also includes owners of personal property damaged by the Disaster.

Loan Purposes: The purpose of these loans and the only permissible use therefor is to restore or replace a victim's primary home (including a mobile home used as the primary residence of the applicant) or business property as nearly as possible to predisaster condition. A loan to a Homeowner may be used to repair or replace damaged or lost furniture and other belongings, or to repay interim financing obtained for that purpose, subject to the definition of Eligible Physical Loss of this section. Funds may be used by a business concern to repair or replace destroyed or damaged business facilities, inventory, machinery or equipment, or to repay interim financing obtained for such purpose. If the disaster victim elects to construct a new home or new business facilities on a different site, the loan may be used for such purpose. Any such loan shall not exceed the estimated cost of restoring or replacing the damaged or destroyed property. SBA' lien position shall be at least as strong as it would have been if the victim had restored the property at the original location, and loans to relocate a 1 to 4 family residential structure will be subject to the Real Estate Settlement Procedures Act of 1974.

Major Disaster: A disaster declared by the President which includes individual assistance. [See § 123.24(a).]

Major Source of Employment: (a) A concern which employed 10 percent or more of the entire work force of a geographically identifiable community, no larger than a county; or (b) a concern which employed 10 percent or more of the work force in an industry within the Disaster Area; or (c) any business within the Disaster Area which employed 1,000 or more employees.

"Old Formula Rate": An interest rate not to exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of one percent plus one quarter of one percent.

§ 123.23 Declaration criteria.

(a) *Minimum damage requirements.* A physical disaster declaration by the Administrator of SBA is based solely on physical damage to buildings, machinery, equipment, inventory, homes and other property, of an extent that warrants a declaration. The Administrator of SBA has no legal authority to make any physical disaster declaration based solely on economic injury. The minimum amount of damage that SBA usually requires before making a physical disaster declaration is:

(1) In any county or other political subdivision of a State, at least 25 homes or 25 businesses, or a combination of at least 25 homes, businesses, or other eligible institutions have each sustained uninsured losses of forty (40) percent or more of their estimated fair replacement value or predisaster fair market value, whichever is lower; or

(2) At least three businesses have sustained uninsured losses of forty (40) percent or more of their estimated fair replacement value or predisaster fair market value, whichever is lower, and, as a direct result of the physical damage, 25 percent or more of the work force in the community would be unemployed for at least 90 days.

(b) *Continuing damage.* All damage suffered in the Disaster Area subsequent to the Commencement Date as a result of the event for which the declaration was made (for example, continued flooding or snowfall) will be considered eligible damage, deemed to have occurred on the Commencement Date.

§ 123.24 Declaration procedures.

(a) *Major Disaster.* When, pursuant to the Disaster Relief Act of 1974, 42 U.S.C. 5141(b), the President declares a Major Disaster which includes the provision of individual assistance, SBA shall issue its disaster declaration in accordance therewith except that if SBA has previously issued a disaster declaration with an earlier Commencement Date, SBA will continue to use its established Commencement Date.

(b) *Small Business Administration Disaster Declaration.* A physical disaster declaration by SBA must be requested by the Governor of the State in which the Disaster occurred (OMB Approval No. 3245–0121). Such request must be made to SBA's Regional Office wherein the Disaster occurred and must be within sixty (60) days of the incident period of a Disaster. The Administrator may, in case of undue hardship extend the filing time for request. The appropriate SBA Regional Office will forward the request to the appropriate Disaster Area Office which will evaluate and forward the request with a recommendation to SBA's Central Office. The Administrator will take final action, and if the request is approved, SBA will publish a notice of Disaster declaration in the **Federal Register.** An Economic Injury Declaration always accompanies a Major Disaster Declaration and an SBA Disaster Declaration.

(c) *Certification By Governor.* When Disaster damage is insufficient for a Major Disaster Declaration, an SBA Disaster Declaration or a Designation by the Secretary of Agriculture, the Governor of the State Wherein the disaster occurred may certify to SBA that at least five (5) small business concerns have suffered Substantial Economic Injury and are in need of financial assistance not otherwise available on reasonable terms in the Disaster Area. The minimum five (5) small business concerns must be located in the county or other political subdivision of a state in which the Disaster occurred. Such certification with supporting documentation shall be sent to the Regional Office wherein the Disaster occurred within 120 days of the incident period of the physical Disaster. The Regional Office will forward the request to the appropriate Disaster Area Office where the request will be evaluated and forwarded with a recommendation to SBA's Central Office. The Administrator will take final action and if the request is approved, publish a notice of Disaster designation in the **Federal Register.** The Administrator may in the case of undue hardship accept such request after 120 days have expired.

(d) *Designations by the Secretary of Agriculture.* SBA may provide economic injury assistance for a natural disaster, determined by the Secretary of Agriculture pursuant to the Consolidated Farmers Home Administration Act of 1961 [Consolidated Farm and Rural Development Act] (7 U.S.C. 1961). Under these designations SBA makes Economic Injury assistance available to eligible nonfarm small buisnesses.

§ 123.25 Conditions affecting all physical disaster loans.

(a) *Amount.* The amount of a loan is limited to the Eligible Physical Loss sustained and funds permitted under paragraph (f), (g), (h) and (i) of this section. [Also see limitation on Business Loans in § 123.8(b).] In no event may the total amount of SBA's share outstanding and committed to a borrower, resulting from a single Disaster, exceed $500,000, except as permitted in § 123.29 and limited by § 123.26. SBA's share of an immediate participation in or guaranty of a loan under this Part may not exceed 90 percent of the sum of the unpaid principal and accured interest.

(b) *Repayment ability.* Loans are further limited by SBA's determination of the applicant's ability to repay. If this amount is not sufficient to restore the damaged property, the applicant must show that sufficient funds are available from other sources to complete restoration or that a reduced facility (within the applicant's ability to repay) is feasible and appropriate.

(c) *Receipts.* Each borrower must retain evidence as to the use of loan proceeds for a period of three years from the date of last disbursement, and make such evidence available to SBA or other authorized Government personnel upon demand.

(d) *Use of proceeds.* Each borrower must use the loan proceeds for the Loan Purposes set forth in the authorization. Any loan recipient who wrongfully applies loan proceeds shall be civilly liable to SBA in an amount equal to one and one-half times the original amount of the loan.

(e) *Personal funds.* SBA may authorize funds for the repayment of personal funds used solely to alleviate the Eligible Physical Loss.

(f) *Refinancing.* A part or all of existing loans secured by recorded liens on real property or on business machinery and equipment damaged by the disaster may be refinanced with a portion of disaster loan proceeds, subject to § 123.26(a)(4): *Provided,* That (1) the property suffered uninsured damage of 40 percent or more of the market value at the time of the disaster; (2) the amount refinanced may not exceed the Eligible Physical Loss; (3) the victim is unable to obtain Credit Elsewhere; and (4) the damaged property is to be rehabilitated or replaced (including relocation) except where a community is under sanction or suspension pursuant to the Flood Disaster Protection Act of 1973, see § 123.13. See also § 123.27(a).

(g) *Relocation.* If the disaster victim elects to construct or buy another home or business facility in a new location, the loan may be used for such purpose, subject to § 123.26(a). However, any such loan shall not exceed the estimated cost of restoring or replacing the damaged or destroyed property, plus amounts eligible for refinancing of existing liens or mortgages on the damaged property. SBA's security interest in the new property shall at least equal such interest SBA would have had at the original location.

(h) *Building restrictions.* Where building restrictions prevent rehabilitation of real property, damage to such property shall be deemed to amount to total loss. In these cases the loan shall be in such greater or lesser amount as SBA deems sufficient to replace the borrower's real property at the new location, and include funds to cover losses of personal property, and eligible refinancing, subject to § 123.26(a).

(i) *Building codes.* Repair to and replacement of property must conform to local building codes.

(j) *Minimum standards of safety and decency.* Upgrading with loan proceeds is not allowed except as necessary to meet minimum standards of safety and decency or to meet building codes.

§ 123.26 Special conditions—Home loans.

(a) *Limits.* SBA's share of loans to a Homeowner (including all dependents) is limited administratively for any one disaster to the following:

(1) $10,000 for repair or replacement of household and personal effects;

(2) $50,000 for repair or replacement of realty, including repair or replacement of landscaping and/or recreational facilities not to exceed $2,500;

(3) $55,000 for the total under subparagraphs (a) (1) and (2) of this section; plus

(4) eligible refinancing pursuant to § 123.25(f) not to exceed the lesser of $50,000 or the physical damage to the real property which is to be repaired;

(5) $105,000 for the total loan within the limitations specified in paragraphs (a) (1) through (4) of this section.

(b) *Additional limits.* Persons living in a damaged home who are not dependents of the occupant may apply for loans to repair or replace personal property to the extent of their loss, but such loans may not exceed $10,000.

(c) *Interest.* Loans made to Homeowners able to secure Credit Elsewhere to repair or replace a home and personal property as a result of a disaster occurring on or after August 13, 1981, will bear interest at the Adjusted Treasury Rate. Loans made to Homeowners unable to obtain Credit Elsewhere will be made at the rate prescribed by the Administration but shall not exceed the lesser of one-half of the Adjusted Treasury Rate or 8% per annum. (For rates applicable to Disasters occurring prior to August 13, 1981, see Appendix A.)

(d) *Supplements.* SBA loans may be supplemented (but not duplicated) with assistance from private relief organizations such as the American Red Cross, the Salvation Army, the Mennonite Disaster Service and other relief or disaster assistance organizations.

(e) *State grants.* Where a State has instituted a grant program under the Disaster Relief Act of 1974 for victims of Major Disasters, those victims who have suffered only personal property damage and who lack repayment ability shall be immediately referred to appropriate State representatives, in order to expedite assistance to victims. SBA shall presume that such victims who rely for over half of their support on unemployment, social security, welfare, survivor or other similar program, lack repayment ability. Disaster victims, who desire to do so, however, may file an application (OMB Approval No. 3245–0017 or 3245–0018) with SBA in order to obtain a decision on their eligibility for financial assistance from SBA.

(f) *Liens.* Homeowners may not refinance liens on personal property nor may they use any loan proceeds to pay indebtedness on personal property. Disaster loan liens may be transferred from condemned properties to other properties which have been acquired with the proceeds of condemnation.

(g) *RESPA.* Owner occupied 1-to-4 family residences are subject to the provisions of the Real Estate Settlement Procedures Act of 1974, as amended.

(h) *Rescission.* Any recipient of an approved disaster home loan for which security is required shall be entitled to rescind said loan pursuant to the Consumer Credit Protection Act, 15 U.S.C. 1601, and Regulation Z of the Federal Reserve Board, 12 CFR Part 226. Any note and mortgage, lien or security agreement which has been executed will be canceled upon return of all funds which have been disbursed.

§ 123.27 Special conditions—Business loans.

(a) *Limits.* Disaster business loans (for the aggregate of physical disaster and economic injury loans) are limited by statute to a ceiling of $500,000 per applicant for SBA's share in any one disaster for direct, immediate participation, or the guaranteed portion of guaranteed loans, unless the Administration finds that an applicant is a Major Source of Employment (as defined in § 123.22) in the Disaster Area, and the Administration waives the $500,000 limitation; *Provided, however,* That in no case shall the total amount of the loan exceed 85% of the Eligible Physical Loss (as defined in § 123.22) excluding allowable refinancing [see § 123.25(f)]. These limitations apply to a concern together with its affiliates as that term is defined in § 121.3–2 of this chapter. Refinancing of liens on personal property employed in the business, such as machinery and equipment, is permissible if such property was substantially damaged [see limitations in § 123.25(f)]. Funds allocated for repair or replacement of landscaping (including recreational facilities) may not exceed $2,500 unless such landscaping fulfilled a functional need or contributed to the generation of business.

(b) *Interest.* Loans made as a result of a disaster occurring on or after August 13, 1981 to business concerns which, in the judgment of SBA, are unable to obtain sufficient Credit Elsewhere, to repair or replace property damaged or destroyed will bear interest at a rate not to exceed 8 percent. Physical disaster business loans to concerns which, in the judgment of SBA, are able to obtain Credit Elsewhere, will bear interest at a rate prescribed by the Administration not exceeding the rate prevailing in the private market for similar loans and not exceeding the maximum interest rate for loans guaranteed under § 7(a) of the Small Business Act.

(c) *Maximum Terms of Loans.* See § 123.8(a).

§ 123.28 Additional conditions—Farm loans.

(a) *Computation of Loss.* To determine the eligible loan amount for full or partial physical crop losses for applicants (OMB Approval No. 3245–0128) determined by SBA to be eligible for assistance under this Part, the Eligible Physical Loss is 85% of an amount which is determined by multiplying the number of acres planted, times the percentage of loss, times per acre cash outlay (production cost) and deducting therefrom recoveries such as crop insurance, USDA grants or other recoveries. In each case, normal yield for each crop must be established to determine the extent of partial crop losses and whether minimum loss criteria have been met. Normal yield is defined as the yield determined by the Agricultural Stabilization and Conservation Service (ASCS) for program crops, and by the Statistical Reporting Service (SRS) county or state averages for those non-program crops for which such averages are available. County Emergency Board (CED) averages (as appropriate) may be used for those non-program crops for which SRS does not maintain averages. Alternate data sources may be approved by SBA if a normal yield is not available from either ASCS, SRS or an appropriate CEB. Cash outlay (production costs) is defined as the actual out-of-pocket cash investment required to plant and/or harvest a particular crop, and such costs as are required to properly maintain such crop.

(b) *Livestock loss* is limited to 85% of the amount of the replacement cost remaining after deduction of any insurance proceeds.

(c) *Partial crop loss.* Applications based on partial crop losses will not be approved until after the normal harvest season for that crop or crops in order that the actual loss may be ascertained.

(d) *Minimum loss.* Applicants must meet minimum loss criteria substantially similar to criteria applied by Farmers Home Administration (see Appendix B).

(e) *Duplication.* Applicants will not be eligible for economic injury assistance for any loss which qualifies as an eligible loss (regardless of percentage reductions) at Farmers Home Administration.

§ 123.29 Loans to major sources of employment

Loans to Major Sources of Employment shall be made under the authority of the Small Business Act and the provisions of this Part. In such cases, the Administration, in its discretion, may waive the $500,000 limitation of § 123.27(a), if the applicant has used all funds from its own resources and all available Credit Elsewhere [see § 123.22] to alleviate the physical damage and/or economic injury sustained plus eligible refinancing.

§123.30 Loan to privately owned colleges and non-profit organizations

(a) SBA is authorized to make physical disaster loans in the case of loss or damage as a result of a declared disaster (see § 123.24), to the extent that

such loss or damage is not compensated for by insurance or otherwise, to a privately owned college or university without regard to the availability of Credit Elsewhere, at the Old Formula Rate, and may, in the case of a major disaster, waive interest payments and defer principal payments on such loans for the first three years of the term of such loans. See also § 123.12.

(b) SBA is also authorized to make physical disaster loans to eleemosynary and other non-profit organizations in the case of loss or damage as a result of a declared disaster, to the extent that such loss or damage is not compensated for by insurance or otherwise without regard to availability of Credit Elsewhere, at the Old Formula Rate.

Subpart C—Economic Injury Disaster Loans and Economic Injury Federal Action Loans

§ 123.40 Introduction.

Loans to which this subpart applies are available only for small concerns situated in a Disaster Area which have suffered or are likely to suffer Substantial Economic Injury as a result of that specific Disaster, or have suffered adverse effects caused by Federal Government action, see § 123.43. For definition of capitalized terms, see § 123.22.

§ 123.41 General provisions.

(a) *Substantial Economic Injury* means a change in the financial condition of a small business concern attributable to the effect of a specific declared disaster, as defined (see § 123.22), or to the effect of "Federal action" (see § 123.43), resulting in the inability of such small concern to meet its obligations as they mature, and to pay its ordinary and necessary operating expenses. If a small concern was established or has undergone a substantial change of ownership after an impending economic injury became apparent (e.g., where the acquisition was made at a "distressed" price), the owner shall be deemed to have assumed that risk, and not to have incurred economic injury. Loss of anticipated profits or a drop in sales which is not disaster-related, is not considered an economic injury. Evidence of loss or injury and of the cause thereof, satisfactory to SBA, must be provided by the applicant (OMB Approval No. 3245–0017). Economic injury shall be evidenced by a showing of:

(1) a generally impaired financial condition attributable to a physical disaster or the alleged Federal Government action; and

(2) the need for funds created by a physical disaster or Federal Government action alleged to have cause the economic injury.

(b) *Eligible Applicants:* An applicant must be a small concern as defined in Part 121 of this chapter. Small concerns regardless of their business activity are eligible to apply for these loans, except for multilevel sales distribution plans of the "pyramid" type, gambling [see § 120.2(d)(5)], financing [see § 120.2(d)(6)], speculative (e.g., mineral exploration), rental property [see § 120.2(d)(7)], and illegal activities [see § 120.2(d)(9)]. Cooperatives, other than consumer or marketing cooperatives, are eligible if owned only by eligible small concerns. All other non-profit groups are ineligible. Applicants determined by SBA as able to obtain Credit Elsewhere (as defined in § 123.22) are not eligible for such loans.

(c) *Term of Loan.* See § 123.8(a).

(d) *Amount of loan:* Economic injury loans of both types, together with physical disaster loans, are limited to a maximum of $500,000 per disaster or incident for SBA's share for each applicant together with its affiliates as defined in § 121.3–2 of this Chapter. *Provided, however,* That this maximum may be waived by SBA for an economic injury disaster loan if the small concern is a Major Source of Employment, as defined in § 123.22. Applicants must use personal and business assets to the greatest extent without incurring personal hardship.

(e) *Use of Proceeds:* Loan proceeds may be used for:

(1) alleviation of the economic injury pursuant to § 123.43 (federal action);

(2) working capital necessary to carry the concern until resumption of normal operations, including debt service and operating costs, but not to exceed that which the business could provide had the disaster not occurred.

(f) *Prohibited use of loan funds.* No funds may be provided for the payment of dividends or other disbursements to owners, partners, officers or stockholders unless they constitute reasonable remuneration and are directly related to their performance of services.

(g) *Interest.* Economic injury disaster loans made as a result of a disaster occurring on or after August 13, 1981, and Federal action loans, will bear interest at a rate not to exceed 8 percent. No such loans shall be made to applicants able to obtain Credit Elsewhere.

§ 123.42 Special provisions—Economic injury disaster loans.

(a) *Availability.* These loans are available for eligible small concerns located in an area which has been:

(1) Declared a Major Disaster Area by the President,

(2) Designated a natural Disaster Area, by the Secretary of Agriculture,

(3) Declared a physical Disaster Area by SBA, or

(4) Designated an area of economic injury by SBA pursuant to a Governor's certification, see § 123.24(c).

(b) *Loan Amount.* Economic injury disaster loans may be approved in addition to any physical disaster loan for which the business may be eligible: *Provided, however,* That the aggregate amount of a physical disaster and an economic injury disaster loan to a single applicant (other than a Major Source of Employment) in a single disaster shall not exceed $500,000 (SBA's share). See also definition of Eligible Physical Loss in § 123.22.

(c) *Use of Proceeds.* Working capital necessary to carry the concern until resumption of normal operations, including debt service and operating costs, but not to exceed that which the business could provide had the disaster not occurred.

(d) *Timely application.* Applicants must apply for a loan within the time established by the disaster declaration or designation (see § 123.24).

(e) *Receipts.* Each borrower shall retain evidence as to the use of proceeds for a period of three years from the date of last disbursement, and make such evidence available to SBA or other authorized governmental personnel upon demand.

§ 123.43 Special provisions—Federal action loans.

(a) *Availability.* Federal action loans are available to eligibile small business concerns when:

(1) The injury results

(i) From action of the Federal government, or

(ii) As a consequence of Federal action, or

(iii) From requirements or restrictions imposed on such concern under any Federal law, any State law enacted in conformity with such law, or any regulation or order of a duly authorized Federal, State, regional or local agency issued in conformity with such Federal law; and

(2) As a result of the Federal, State or local action listed in paragraph (a)(1) of this section, the small business concern must:

(i) Effect additions to, alterations in or reestablish its plant or facilities in a new or the same location, or

(ii) Alter its method of operation; and

(3) Without assistance under the Federal Action loan program the small business concern is likely to be unable to market a product, or to suffer substantial economic injury, and

(4) The small business concern is unable to obtain Credit Elsewhere as defined in § 123.22.

(b) *Loan Amount.* No loan under this section shall exceed $500,000, and the amount of such loan shall be based solely on a determination made on each application.

(c) *Use of Proceeds.* (1) Alleviation of the problem caused by the Federal action (e.g., change in location or method of operation).

(2) Working capital necessary to carry the concern until resumption of normal operations, including debt service and operating costs, but not to exceed that which the business could provide had the federal action not occurred.

(3) Upgrading, when deemed necessary by SBA. Such upgrading is limited to one-third of building size and one-half of land space, and to meet building code requirements.

(4) The refunding of bank or prior SBA loans when SBA deems the debt service too burdensome or otherwise inappropriate, subject to § 120.2(d)(1) of this Chapter. No refunding shall be permitted on loans provided, guaranteed or insured by another Federal agency or a small business investment company licensed under the Small Business Investment Act.

(d) *Types of Loans.* See § 123.3.

(e) *Terms of Loans.* See § 123.8(a).

(f) *Service Fees.* See § 123.5

Dated: September 6, 1983.

Heriberto Herrera,

Acting Administrator.

Appendix A—Interest Rates in Effect Prior to August 13, 1981

Since these regulations are based on currently applicable interest rates (i.e., since August 13, 1981), rates applicable to earlier disaster loans, on SBA's share of a loan, are summarized here for convenience only. For details, see Rev. 9 of Part 123, 1983 edition of Title 13, Code of Federal Regulations, Ch. 1.

(1) *Disasters on or after January 1, 1971, and before January 1, 1972.* For physical disaster loss assistance, and for economic injury assistance in areas declared to be major disaster areas by the President or natural disaster areas declared by the Secretary of Agriculture, in an area accepted by SBA as a natural disaster-caused economic injury area upon its Governor's certification, the interest rate on SBA's share of the loan is three percent (3%).

(2) *Disasters on or after January 1, 1972, and before April 20, 1973.* For losses described under (1) above one percent (1%), except natural disasters declared only by the Secretary of Agriculture, three percent (3%).

(3) *Disasters on or after April 20, 1973, and before August 5, 1975.* A rate not to exceed five percent (5%).

(4) *Disasters on or after August 5, 1975, and before July 1, 1976.*

All disaster assistance loans carry interest at a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest-bearing U.S. public debt obligations as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth percent (0.125%) plus one-quarter percent (0.25%) (hereinafter called Old Formula Rate), such rate not to exceed the rate of interest in effect at the time of the occurrence of the disaster.

(5) *Disasters on or after July 1, 1976, and before October 1, 1978.*

(a) *Physical Disaster Home Loans:* One percent (1%) on the first $10,000 to repair or replace primary residence or personal property, three percent (3%) from $10,000 up to $40,000, and the Old Formula Rate on any repair or replacement costs exceeding $40,000, and on any amounts used for refinancing.

(b) *Other Physical Disaster Loans:* Three percent (3%) up to $250,000 and the Old Formula Rate thereafter;

(c) *Loans for Economic Injury Resulting from a Physical Disaster:* Three percent (3%) for the first $25,000 of such loan, Old Formula Rate thereafter;

(d) *All other Economic Injury Loans:* Old Formula Rate;

(6) *Disasters on or after October 1, 1978, and before July 2, 1980.*

(a) *Physical Disaster Home Loans:* Three percent (3%) for loans to repair or replace a primary residence or personal property, up to $50,000 and $10,000, respectively, but not to exceed $55,000 combined. The Old Formula Rate applies to amounts in excess thereof and also applies to homes other than primary and owner-occupied 1–4 residences;

(b) *Physical Disaster Business Loans:* Where SBA determines that the small concern is unable to obtain Credit Elsewhere (see § 123.22 for definition), five percent (5%), but the Old Formula Rate for the refinancing part thereof. Absent such determination, the Old Formula Rate applies.

(7) *Disasters on or after July 2, 1980, and before August 13, 1981.* Same as in (6) above, except that loans to businesses able to obtain Credit Elsewhere were made at the Adjusted Treasury Rate, as defined in § 123.22.

Appendix B—Memorandum of Understanding between the Small Business Administration (SBA) and the United States Department of Agriculture (USDA)—Farmers Home Administration (FmHA) Pertaining to Disaster Loan Assistance Programs

I. Preamble

Pub. L. 96–302, which amended the Small Business Act and the Consolidated Farm and Rural Development Act, amends Section 18 of the Small Business Act by—"(1) striking the comma after the phrase 'agricultural related industries' and inserting the following: ': Provided, That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar rates from the Farmers Home Administration under Subchapter III of the Consolidated Farm and Rural Development Act,' and . . . ."

This legislation makes it clear that farmers are to be directed to the FmHA for disaster loan assistance once a disaster declaration has been made as a result of disasters commencing on or after July 3, 1980.

This joint Memorandum reaffirms the mutual desire of SBA and FmHA to cooperate in the use of their respective disaster loan-making authorities to compliment the disaster program activities of each other, consistent with the basic purpose of the legislation.

It is *not* intended that this Memorandum alter the relationship that currently exists between FmHA and SBA regarding the handling of each Agencies' regular lending programs.

With respect to their regular programs, FmHA and SBA will continue, to the extent possible, to improve and expand the delivery of financial assistance to the agricultural community.

II. Definitions

1. *Farming* is the business of producing crops, livestock, livestock products, and aquatic organisms through the management of land, water, labor, capital and basic raw materials, e.g., seed, feed, fertilizer and fuel.

2. *Natural Disaster* (As authorized by FmHA State Directors) is a disaster caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fire resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Physical Disaster* (As declared by the Administrator of SBA) is a disaster caused by a flood, riot, civil disorder, hurricane, tornado, storm, high water, wind-driven water, tidal wave, snowstorm, drought, fire, explosion or other catastrophic event.

4. *Major Disaster* (As declared by the President) is a disaster caused by any catastrophic event of sufficient magnitude to warrant major disaster assistance by the Federal Government, under the Disaster Relief Act of 1974.

5. *Housing Losses* are losses sustained to the farmowner's personal dwelling, tenant housing or farm labor housing and their contents, and other personal property contained therein.

6. *Agricultural Enterprises* are those businesses engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries.

7. *Credit Elsewhere:*

(a) For SBA purposes, is the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the disaster loan applicant transacts business for similar purposes and periods of time.

(b) For FmHA purpose, is the availability of sufficient credit elsewhere taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

8. *Federal Individual Assistance* is the Federal disaster assistance made available to private individuals and privately owned and operated agricultural enterprises as compared to public assistance disaster programs which are available to governing bodies and quasi-governing bodies of political subdivisions.

9. *Presidential Emergency* is any disaster in any part of the United States which is of such magnitude that the President makes a declaration and which requires certain Federal emergency programs to supplement State and local efforts in the preservation of lives and protection of property, public health and safety, or to avert or lessen the threat of a more severe disaster.

III. General Guidelines

1. The FmHA administers its financial assistance programs through its State, District and County offices.

The SBA administers its financial assistance programs through its Regional, District and Branch offices.

2. All farm disaster loss loan applications heretofore and hereafter approved by SBA will be serviced by SBA.

3. The SBA and FmHA will have substantially similar interest rates for their respective loss loans. It is agreed, therefore, that such interest rates will not differ by more than one percent per annum at any given time, and will be applied in accordance with Section 114 of Public Law 94–305; and that the FmHA Deputy Administrator for Farm and Family Programs and the SBA Associate Administrator for Financial Assistance will consult before either Agency changes its loss loan rate of interest.

4. FmHA State Directors and SBA District Directors will consult with each other when either is contemplating authorizing or recommending that an area(s) be named where farm disaster financial assistance is to be made available. Each Agency, at the National level, will notify the other in writing when such declaration or authorization is officially made.

5. FmHA State Directors and SBA District Directors will exchange addresses of their respective offices and identify the geographical area(s) served by each. This specific information will be available in all field offices of both Agencies so applicants can be referred to the appropriate offices with a minimum of delay. The FmHA uses its local county offices to administer disaster emergency programs. SBA will either establish special local offices for administering its disaster assistance programs, or utilize permanent SBA offices, as appropriate.

6. SBA Disaster Branch Offices and FmHA County Offices will cooperate to avoid overlapping and duplication of disaster benefits by exchanging loan application and loan approval information while ensuring that farmers and rural resident disaster victims receive the assistance to which they are entitled.

7. FmHA State Directors and SBA District Directors will meet on a frequency of not less than annually to review this Memorandum of Understanding, clarify and agree on each Agency's disaster program responsibilities, and plan appropriate training meetings for their respective employees to assure familiarity with and common understanding of the contents of this Memorandum of Understanding.

IV. How Loans Are Made Available

1. *FmHA Emergency (EM) Loans.* EM Loans will be made available in counties named by the Federal Emergency Management Agency (FEMA) as eligible for Federal Individual Assistance under a major disaster or emergency declaration by the President, or in counties where EM Loans are authorized by the FmHA State Director because of a natural disaster.

2. *SBA Disaster Loans.* SBA Physical Loss and Economic Injury Disaster Loans will, as determined to be necessary and appropriate, be made available in counties named by FEMA, as well as in counties declared by the Administrator of SBA. Economic Injury Disaster Loans, as a separate program, will be made available to nonfarm small business concerns in counties where FmHA State Directors have authorized EM Loans, and furthermore, SBA Physical Disaster Loans will be made available to those agricultural enterprises referred to SBA by FmHA pursuant to paragraph IV4(e) of this Memorandum of Understanding.

3. FmHA and SBA will establish a liaison at both the State Director/District Director level and the National level and periodically coordinate their activities to: (a) Exchange detailed information concerning the disaster loan programs, (b) define areas of cooperation between the two Agencies, (c) assure that their programs are serving the intended recipients, (d) establish new methods to serve the public more expeditiously, and (e) achieve maximum utilization of their respective resources.

4. The SBA and FmHA agree that the interests of agricultural enterprises will be best served, and that each Agency will achieve better utilization of available resources, through the operating guidelines discussed in this section relative to areas where these Agencies offer disaster assistance. Furthermore, National FmHA and Central SBA office representatives agree to meet on a frequency of not less than annually to review this Memorandum of Understanding, discuss matters of mutual concern relating to each Agency's disaster loan programs and to revise this document, if appropriate.

(a) When an applicant has sustained only housing and personal property losses in areas where SBA's Physical Loss Loans are available, *only* SBA will make loans for the restoration or replacement of disaster caused housing losses as defined in paragraph II 5 of this Memorandum of Understanding. When an agricultural enterprise has suffered farm production and/or physical farm losses, as well as housing losses, and SBA has not approved a physical disaster declaration for the affected area, FmHA will make the loan(s) for the production and physical farm losses as well as the housing losses.

In the event both Agencies have made their disaster assistance programs available for the area, applicants will have the option of going to FmHA *or* SBA for disaster loan assistance to restore or replace their housing losses; however, *in all cases*, farm production and farm physical loss loans will be made by FmHA, providing the applicant is otherwise eligible.

In those instances where an FmHA farm production and/or physical farm loss loan(s) is to be made, following approval of an SBA Housing Loss Loan, the SBA will, upon request from FmHA, subordinate its lien to FmHA, as may be required for approval of the FmHA loss loan(s).

(b) When an applicant makes an initial inquiry for disaster assistance from SBA and farm losses are evident, the applicant will be advised of the provisions of (a) above and referred to FmHA for the needed financing based on farm losses. When an applicant makes an initial inquiry with SBA seeking disaster assistance for housing losses *only*, the applicant will be referred to FmHA for consideration whenever the losses suffered were not in an SBA authorized area. Should such an applicant be in an SBA authorized area and be denied SBA assistance because of a lack of repayment ability due to low income, the applicant may be referred to FmHA for its consideration under FmHA's 502 Rural Housing Interest Credit Loan Program, provided the applicant resides in a rural community or in a community under 20,000 population. FmHA may be able to extend interest credit assistance to such borrowers at rates as low as 1 percent under that Loan Program.

(c) In any event, potential farm loan applicants should contact FmHA for an interview to determine whether they are eligible for disaster loan assistance from the FmHA. [Those not eligible will be referred to the SBA for consideration, except those discussed in paragraph (e) below.] Where a referral or denial action is taken by the FmHA, the referral or denial letter to the applicant will specify the reason(s) why the disaster type assistance requested by the applicant was not made available by FmHA.

(d) Potential applicants are not to be referred back and forth between FmHA and SBA. Representatives of each Agency must be reasonably certain the disaster victim is eligible for assistance from the other agency before a referral is made.

(e) FmHA personnel will refer, by letter, those applicants ineligible for FmHA EM Loan assistance for reasons such as alien status; corporations, partnerships and cooperatives not being primarily engaged in farming; and farm owners who do not operate their farm(s). Referral letters will state the

specific reason(s) for ineligibility and will include the following statement, "Applicant has been informed that applicants for SBA Physical Disaster Loan assistance must meet minimum loss criteria substantially similar to that employed by FmHA." Referrals will not be made by FmHA when the reason(s) for loan denial is based on unfavorable credit determinations (includes inadequate security), lack of repayment ability, or when it is known to FmHA that sustained disaster losses are insufficient to meet its minimum loss criteria.

(f) Disaster victims filing for financial assistance from either Agency will give written permission for FmHA and SBA to exchange all prior and current loan applications and loan experience information, including appraisals. The format for this permission must be developed in compliance with the Privacy Act.

(g) Applicants filing for financial assistance from either Agency must use the forms and procedures of the Agency being requested to provide such assistance. An applicant who is denied assistance by either Agency must file a new application with the other in accordance with that Agency's forms and procedures. However, the earliest filing date of an application for losses with either Agency will constitute the filing date with regard to termination dates for receiving applications by either Agency; provided *not more than six months* has elapsed since the termination date of the second Agency contacted, at the time that Agency is requested to process an application.

V. Description of Lending Policies

The FmHA guarantees EM Loans and also makes insured EM Loans. Guaranteed EM Loans are loans where an eligible lender advances the entire loan from its own resources and services the loan. The FmHA guarantees repayment to the lender of a certain percentage of any loss of principal and interest. Insured EM Loans are those made from the Agricultural Credit Insurance Fund (ACIF) by FmHA employees and serviced by FmHA employees.

The SBA makes direct, immediate participation, and guaranteed loans. Direct loans are made with SBA funds only. Immediate participation loans are those in which SBA agrees to purchase a specified percentage of a loan from a lender immediately after disbursement of such loan. Guaranteed loans are made by a conventional lender from its own funds and SBA guarantees a percentage of the unpaid balance.

VI. Loan Programs

The Emergency and Disaster Loan Programs of FmHA and SBA are outlined in Table I which sets forth the comparative similarities and differences of each program.

VII. Administrative Guidelines

1. The services of FmHA and SBA, which are available to lenders and applicants are, by mutual agreement, services that each Agency would provide any eligible applicant in the normal course of business; and normally there will be no reimbursement by either Agency to the other for such services.

2. The National Office of FmHA and the Central Office of SBA will cooperate in counseling their field offices and in resolving problems in specific cases.

3. This Memorandum of Understanding in no way alters or supersedes the existing Memoranda between the two Agencies covering FmHA's regular farmer loan authorities and its Business and Industrial Loan authorities, and all of SBA's regular loan programs. However, this Memorandum replaces the previous Memorandum of Understanding on disaster type loan assistance, signed by SBA on July 21, 1977, and by FmHA on August 25, 1977.

4. This agreement may be amended at any time by written agreement of both parties.

5. This agreement shall take effect upon the later date shown below.

Dated: September 23, 1982.

Gordon Cavanaugh,

Administrator, Farmers Home Administration

Dated: September 26, 1980.

A. Vernon Weaver,

Administrator, Small Business Administration.

SBA/FmHA Memorandum of Understanding Disaster Loan Assistance Programs

Table I—Comparative Similarities and Differences

FmHA	SBA
ELIGIBILITY	
1. An individual applicant must be a citizen of the United States. For applicants which are organized as a partnership, a cooperative, or a corporation, the principal owners must be U.S. citizens; over 50 percent of the ownership of such entities must be held by U.S. citizens; and the manager of any such entity must have an ownership interest in the entity and be a U.S. citizen. Such entity must be recognized and authorized to farm in the State(s) in which it will operate a farm(s), and such entity will be in good standing in that State(s).	1. Citizenship is not required. However, use of disaster loan proceeds outside the United States or its possessions is not permitted.
2. EM loan applicants *able* to obtain their needed credit elsewhere may be considered for an *Actual Loss Loan only at a current market rate of interest.* EM Loan applicants *unable* to obtain their needed credit elsewhere, exclusive of an SBA Physical Disaster Loss Loan, may qualify for an *Actual Loss Loan(s) at 5 percent interest, and EM Annual Production and/or EM Major Adjustment Loan(s) at the current market rate of interest.*	2. Physical Disaster Loans are made to non-business loan applicants, without regard to the availability of other financing or resources, and business loan eligibility is similar. However, the SBA's judgment of the business' capacity to obtain credit elsewhere will determine the applicable interest rate. Applicants for Economic-Injury Disaster Loan (EIDL) assistance *must* seek and fully utilize all alternate financing resources prior to obtaining an EIDL loan from SBA. EIDL applicants must be eligible *small* businesses according to SBA size standards.
3. The applicant must be an established farmer, rancher or aquaculture operator, either tenant-operator or owner-operator. If the applicant is a partnership, corporation, or cooperative, it must be primarily engaged in farming; i.e., it must derive over 50 percent of its gross income from all sources from the farming operation(s), and the farming operation(s) must be managed by one or more of the principal partners, principal stockholders, or principal members.	3. Most homeowners, businesses and nonprofit institutions are eligible for Physical Disaster Loan assistance.
4. The applicant must have been conducting a farming operation(s) at the time of the disaster in a county or counties where EM Loans have been authorized.	4. The applicant must be within the disaster area as defined by the SBA disaster declaration.
5. The applicant must have suffered qualifying property damage or production losses as a direct result of the declared or authorized disaster.	5. The applicant must have suffered real or personal property damage as a direct result of the declared disaster.
6. The applicant must be of good character, have the necessary experience and/or training, industry, and ability to carry out the proposed operation.	6. Applicants must be of good character and must be able to provide reasonable assurance of loan repayment ability.
7. Will take all farm disaster applications and approve EM Loans based on disasters commencing *after July 2, 1980*, regardless of whether or not an applicant can obtain the credit needed elsewhere.	7. Will take any farm disaster applications and approve disaster loans based on disasters commencing *on or before July 2, 1980*. Applicants applying for farm disaster loans based on disasters commencing *on or after July 3, 1980*, will be referred to FmHA.
LOAN PURPOSES	
1. For those unable to obtain credit, to cover actual losses for damaged or destroyed farm property and production; provide essential annual farm production and family living expenses; and provide the financing necessary to make adjustments in the farming operation, which will assure the return of the operation to a financially sound pre-disaster base.	1. The purpose of Physical Disaster Loans is to restore the disaster victim's home or business property, real or personal, as nearly as possible to its pre-disaster condition. No upgrading is permitted except as required for code compliance.
2. Housing losses—available under FmHA's Rural Housing Disaster Loan Program only when SBA's Physical Disaster Loan assistance is *not* available. When housing and farm losses are involved, the applicant may choose between SBA or FmHA for loan assistance on the housing loss, but all farm loss assistance will be provided by FmHA.	2. Housing losses--When only housing losses are sustained, SBA will make all Housing Loss Loans caused by the declared disaster. In those areas where both FmHA and SBA disaster programs are available, applicants may select the Agency from which they wish to obtain their Housing Loss Loan, but all applications for farm loss loans will be referred to FmHA.

Table I—COMPARATIVE SIMILARITIES AND DIFFERENCES—Continued

FmHA	SBA
3. Initial EM Annual Production Loans may be applied for up to 12 months from the disaster authorization date. Subsequent EM Annual Production Loans may be applied for up to three full calendar years after the disaster authorization date. However, EM Annual Production Loans, initial or subsequent, are *not* available to applicants who are initially *able* to obtain their needed credit elsewhere.	3. Economic Injury Disaster Loans are somewhat similar; however, the need for these loans must be specifically related to the physical disaster as declared by SBA.
4. EM Major Adjustment Loans may be applied for up to 12 months after the disaster authorization date, but are *not* available to applicants who are initially *able* to obtain their needed credit elsewhere.	4. No comparable disaster loan program; however, SBA's Regular Business Loan Program is somewhat similar.
RATES AND TERMS	
Actual Loss Loans: (a) For applicants who are *able* to obtain their credit elsewhere, the interest rate for EM Actual Loss Loans is established by the Secretary of Agriculture, based on the cost of money to the Government using the statutory formula. (b) For applicants who are *unable* to obtain their credit elsewhere, the interest rates for EM Actual Loss Loans are as follows: (1) For disasters occurring through September 30, 1978, for which loans were approved on or after October 1, 1978, the rate is 3.00 percent. (2) For disasters occurring on or after October 1, 1978, the rate is 5.00 percent. Actual Production Loss Loans are normally made for up to 7 years. Under certain circumstances loss loans for production and chattel losses may extend up to 20 years with special conditions, depending on the life expectancy of the collateral securing the loan(s). Actual Loss Loans for real estate purposes will normally be for 30 years, but may extend up to 40 years.	1. Interest rate on Physical Disaster Business Loans where credit elsewhere is available is determined by a statutory formula which is based upon the cost of money to the Government, and which will remain in effect for all disasters occurring on or after October 1, 1978, and prior to October 1, 1983. During the same period, October 1, 1978, through September 30, 1983, there is a 3 percent interest rate for losses to primary homes and personal property; and a 5 percent rate for loans to businesses, which in SBA's judgment are unable to obtain credit elsewhere. Interest rates on loans for all other purposes are based upon a statutory formula. SBA Home, Personal Property, Business, and Economic Injury Disaster Loans may have maturities of up to 30 years. However, the repayment ability of the applicant will determine the actual maturity of the loan.
2. Annual Production Loans—At the current prevailing market rate established periodically by the Secretary and repayable when principal income from the year's operation is normally received.	2. Interest rate for Economic Injury Disaster Loans which are similar is based upon a statutory formula.
3. Major Adjustment Loans—At prevailing current market rate as established periodically by the Secretary. Such loans for chattels are normally made for up to 7 years, and for real estate, normally up to 30 years. Under certain circumstances loans for chattels may extend up to 20 years and loans for real estate may extend up to 40 years.	3. No comparable disaster loan program.
LOAN LIMITS	
1. In addition to the ceiling limitations listed herein, the extent of loan assistance is also limited by the amount of actual loss, potential repayment ability, collateral available, the applicant's needs and other credit factors. (a) There is a statutory limit of $500,000 per disaster per applicant for Actual Loss Loan assistance for both those who *can obtain* and those who *cannot obtain* their credit elsewhere. (b) Administrative ceilings for those who cannot obtain credit elsewhere have been established as follows: (1) Actual Loss Loan—$500,000 per applicant per disaster designation for disasters occurring on or after October 1, 1978. (2) $250,000 per applicant per disaster designation for disasters occurring through September 30, 1978. (3) Annual Production and/or Major Adjustment Loans—$1,500,000 outstanding principal balance authorized per EM borrower, regardless of the number of disasters. A further sub-limitation setting a $300,000 maximum outstanding principal balance on Major Adjustment Loans for refinancing debts, which are secured by real estate, is established within the above $1,500,000 ceiling. However, borrowers indebted for an EM Loan(s) on or before December 15, 1979, who cannot obtain credit elsewhere, may receive subsequent Annual Production Loans in amounts necessary to continue their normal operation(s) without regard to this indebtedness ceiling.	1. Home Loans—No statutory limit; however, the following administrative limits have been established: (a) $50,000 for real estate, (b) $10,000 for personal property, or (c) $55,000 for combined purposes and up to $50,000 for eligible refinancing. 2. Business Loans, Physical Disasters—No statutory limit for disasters commencing prior to enactment of Pub. L. 96-302, i.e., July 2, 1980; however, a $500,000 administrative limit was in effect; exceptions permitted by SBA Regional Administrator to avoid undue financial hardship. For disasters commencing on or after July 3, 1980, the *statutory* limit is $500,000 per disaster per borrower. Limit may be waived by Administrator if applicant is a major source of employment in an area suffering a major disaster declared by the President. 3. Business Loans, Economic Injury—No statutory limit, the amount of economic injury determines the size of the loan.
GRADUATION POLICY	
1. Reviewed to determine ability to obtain credit from other credit sources after a three (3) year period following receipt of the initial EM loan, and every two (2) years thereafter, until graduation is achieved or the loan(s) is paid in full. Refinancing, when available, is mandatory for borrowers who, when they received their initial loans, were unable to obtain credit from other sources.	1. Business loan applicants, who can obtain credit elsewhere (loans approved at formula rate), will be reviewed for graduation three years after a Physical Disaster Business Loan is fully disbursed, and every two years thereafter for the term of the loan. Refinancing, when available, is mandatory.
ECONOMIC INJURY LOANS	
1. EM loans for annual production purposes are similar.	1. SBA is authorized to make Economic Injury Disaster Loans to small business concerns that have suffered cash flow problems related to the disaster. These loans are for working capital only and do not allow for any expansion.

[FR Doc. 83-27000 Filed 10-3-83; 8:45 am]
BILLING CODE 6025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Procedural Regs. Docket 40891; PR-251B]

Procedures for Awarding Japanese Charter Authorizations

AGENCY: Civil Aeronautics Board.

ACTION: Suspension of rule provision.

SUMMARY: The CAB is suspending the provision for a secondary lottery to reallocate forfeited Japan charter authorizations for the year beginning October 1, 1983, pending final action on a proposed system that would replace the lottery. The action is taken at the Board's initiative, to avoid unnecessary procedures while changes are being considered.

DATES: Adopted: September 28, 1983.
Effective: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia A. DePuy Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut

Avenue, NW., Washington, D.C. 20428; 202-673-5878.

SUPPLEMENTARY INFORMATION:

14 CFR Part 320 imposes penalties on carriers that have Japan charter authorizations that they allow to expire unused. It also imposes penalties on carriers with "grandfather" authorizations when they transfer more than 10 percent of those authorizations during a year. These penalties are in the form of forfeitures of authorizations for future years. Section 320.16 then provides that the Board will reallocate these forfeited authorizations by "secondary lotteries" that will be held not later than November 1 of the allocation year (which begins on October 1). (See PR251, 47 FR 43352, October 1, 1982.)

The Board is proposing a new system for reallocating authorizations, both those that carriers voluntarily turn back, and those that are forfeited. The proposal is based on a review of operations during the first year of the program. The system is basically a continuous first-come-first-served request procedure, designed to eliminate the need for lotteries once it is operating. The proposed system would allow turn-ins for the year beginning October 1, 1983, and subsequent years, and would also dispose of any authorizations that may be forfeited for non-use in the year ending September 30, 1983.

Because the new system, if adopted, is inconsistent with the lottery provided in § 320.16(a) of the existing rule, and would replace it, the Board is suspending the operation of § 320.16(a), pending final action on the new proposed reallocation system. With that final action, § 320.16(a) will either be replaced by a new provision or reinstated.

Because this action merely suspends a minor Board procedure pending completion of notice and comment proceedings to replace it, the action has no significant adverse effect on any person, and little time remains before the specified date for the procedure, the Board finds that notice and public procedure thereon are impractical and unnecessary, and that good cause exists for making the action effective less than 30 days after publication.

Accordingly, the Board hereby suspends 14 CFR 320.16(a), pending final action on a proposed new reallocation system.

(Secs. 204, 401, 407, 416, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 771, 797; 49 U.S.C. 1324, 1371, 1377, 1386, 1502)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-27031 Filed 10-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Red No. 3 in Externally Applied Drugs and Cosmetics and of Its Lakes in Food and Ingested Drugs; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of the use of FD&C Red. No. 3 in coloring externally applied drugs and cosmetics and of the use of the lakes of FD&C Red No. 3 for coloring food and ingested drugs. The new closing date will be December 2, 1983. This postponement will provide additional time for the agency to complete its review and consider the scientific and legal aspects of the results of the toxicological studies of FD&C Red No. 3. Additionally, during this postponement, after completing its review of these studies, the agency will prepare the appropriate **Federal Register** document(s).

DATES: Effective October 2, 1983, the new closing date for FD&C Red No. 3 will be December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Marvin Mack, Bureau of Foods (HFF-344), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of October 2, 1983, for the provisional listing of FD&C Red No. 3 for use as a color additive in externally applied drugs and cosmetics and for the provisional listing of the lakes of FD&C Red No. 3 for use in food and ingested drugs by a final rule published in the **Federal Register** of March 27, 1981 (46 FR 18954). The October 2, 1983 closing date was established to provide time for completion of chronic toxicity studies on the use of FD&C Red No. 3 and of FDA's review and evaluation of the data concerning the provisionally listed uses of FD&C Red No. 3 and its lakes. FDA also believed that this closing date would provide time for the preparation and publication of a decision on the petition for the permanent listing of the aforementioned uses of this color additive and its lakes. The regulation set forth below will postpone the October 2, 1983 closing date for the provisionally listed uses of the color additive and its lakes until December 2, 1983.

FDA's review and evaluation of the data relevant to the use of FD&C Red No. 3 have required more time than anticipated. A decision on this color additive has been made difficult by two aspects of the data. First, the data from the chronic study in rats indicate that there was a treatment-related occurrence of thyroid follicular adenomas when FD&C Red No. 3 was administered in the animals' diet. However, a conclusion based on these data is confounded by a second factor—FD&C Red No. 3 is an iodinated organic compound. As such, it could possibly be functioning as a thyroid hormone or be affecting thyroid hormonal balance. Thus, it is not clear whether the effects that FD&C Red No. 3 has been shown to have on the thyroid are direct or secondary. The resolution of this issue may have a significant effect on how FDA regulates this compound.

FDA is therefore postponing the closing date of the provisional uses while it reaches a determination on this color additive. To assist the agency in reaching its determination, FDA has arranged for a peer review by the Scientific Board of Counselors of the National Toxicology Program (the Board) of the data on the thyroid neoplastic lesions in treated rats fed FD&C Red No. 3 at the Board's October meeting. This open meeting will be announced by notice in the **Federal Register** by the National Toxicology Program. As soon as possible after the agency receives the recommendations of the Board, FDA will make a final determination on the petitions and institute action, if appropriate, on the permanently listed uses of this color additive.

The agency wishes to emphasize that the sole purpose of this extension is to obtain the views of the National Toxicology Program on existing data. Based on the existing data and the National Toxicology Program's scientific evaluation, FDA will proceed promptly to normalize the regulatory status of FD&C Red No. 3 in accordance with its judgment about whether the data show that the color additive is "safe."

The agency, therefore, concludes that a brief extension of the closing date for the provisionally listed uses of FD&C Red No. 3 is appropriate (section

203(a)(2) of the transitional provisions). The agency further concludes that because the provisionally listed uses of this color additive do not represent an acute hazard, and because the agency will make a decision on these uses on or before December 2, 1983, no harm to the public health will result from this brief extension.

Because of the short time until the October 2, 1983 closing date, FDA concludes that notice and public procedure on this regulation are impracticable, and that good cause exists for issuing this postponement as a final rule. This final rule will permit the uninterrupted use of this color additive until December 2, 1983. To prevent any interruption in the provisional listing of FD&C Red No. 3 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective on October 2, 1983.

List of Subjects in 21 CFR Part 81

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c) and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

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

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing dates for "FD&C Red No. 3" in paragraph (a) to read "December 2, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "FD&C Red No. 3" in paragraph (d) to read "December 2, 1983."

Effective date. This final rule is effective October 2, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74, Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 29, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-27083 Filed 9-30-83; 1:33 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-147; Ref: Notice No. 456]

Establishment of Fiddletown Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Amador County, California, to be known as "Fiddletown." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "Fiddletown" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

The Fiddletown Wine Grape Growers in Amador County, California, petitioned ATF to establish a viticultural area to be known as "Fiddletown." In response to this petition, AFT published a notice of proposed rulemaking, Notice No. 456, in the **Federal Register** on February 15, 1983 (48 FR 6724), proposing the establishment of Fiddletown as a viticultural area.

Historical and Current Evidence of the Name

The petitioner submitted evidence to show that the name "Fiddletown" is well known because of its inclusion in a story by Bret Harte. It is the name given to an Amador County community at its settlement during the 1850 gold rush. The town's name was changed to "Oleta" for a brief period and then restored to "Fiddletown" in 1920. Several nationally known wines have been distributed bearing the Fiddletown area name since the early 1970's.

Geographical Features

The petitioner submitted evidence to show that the proposed area differs from the neighboring Shenandoah Valley of California viticultural area because of its higher elevations of 1500 to about 2500 feet, colder nighttime temperatures and a higher rainfall of 30 to 40 inches per year. The area surrounding the north and east boundaries is above 2500 feet and for the most part, too rugged a terrain and too cold for growing grapes.

The summer daytime tempertures range from the eighties to one hundred degrees and nights are cool from breezes from the surrounding mountains. The grapes are grown without any irrigation and vines produce from 1½ to 3 tons per acre. Most of the grapes are grown on the southern and western rolling slopes of the hills in the area where the soil is a deep loam of decomposed granite. The soils of the Fiddletown viticultural area are Sierra-Ahwahee and Sites series which are deep, moderately well drained and consist of loams or sandy loams.

Comments

Five comments were received from wine industry members supporting the Fiddletown viticultural area. In the notice of proposed rulemaking the question of reducing the viticultural area size was raised since this area of approximately 11,500 acres contains only 310 acres of vineyards. Two of the comments strongly opposed reducing the size of the area because there are approximately 1,000 acres suitable for vineyard development and the present 310 acres of vineyards are scattered throughout the Fiddletown viticultural area.

Because of the evidence received, ATF is accepting the Fiddletown

viticultural area boundaries as stated in the notice of proposed rulemaking.

Miscellaneous

ATF does not wish to give the impression by approving Fiddletown as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Fiddletown wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not result in—

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

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

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

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location:

ATF Reading Room, Rm. 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave., NW, Washington, D.C.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include the title of §9.81 as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.81 Fiddletown.

* * * * *

Par. 2. Subpart C is amended by adding §9.81 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§9.81 Fiddletown.

(a) *Name.* The name of the viticultural area described in this section is "Fiddletown."

(b) *Approved map.* The approved maps for the Fiddletown viticultural area are the U.S.G.S. maps entitled "Fiddletown Quadrangle California," "Amador City Quadrangle California," "Aukum Quadrangle California," and "Pine Grove Quadrangle California," 7.5 minute series (topographic), 1949–1962.

(c) *Boundaries.* The Fiddletown viticultural area is located in Amador County, California. The boundaries are as follows:

(1) From the beginning point at the north boundary where Fiddletown Shenandoah Road crosses Big Indian Creek in Section 28, Township 8 N, Range 11 E, proceed in a southwesterly direction following Big Indian Creek through the southeast corner of Section 29, crossing the northwest corner of Section 32 to where it meets Section 31;

(2) Then in a southerly direction follow the Section line between Sections 31 and 32, Township 8 N, Range 11 E, and Sections 5 and 6, 7 and 8, Township 7 N, Range 11 E, to where the Section line meets the South Fork of Dry Creek;

(3) Then following the South Fork of Dry Creek in an easterly direction crossing the lower portions of Sections 8, 9, 10, 11, 12 and into Township 8 N, Range 12 E, at Section 7 and across Section 7 to where it meets Section 8;

(4) Then north following the Section line between Sections 7 and 8, 5 and 6 into Township 8 N, Range 12 E, between Sections 31 and 32, to Big Indian Creek; and

(5) Then following Big Indian Creek in a northwesterly direction through Sections 31, 30, 25, 26 and 27, returning to the point of beginning.

Signed: September 2, 1983.

Stephen E. Higgins,

Director.

Approved: September 14, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27069 Filed 10-3-83; 8:45 am]

BILLING CODE 4810-31-M

[T.D. ATF-148; Ref: Notice No. 448]

27 CFR Part 9

Establishment of Paso Robles Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision establishes a viticultural area in San Luis Obispo County, California, to be known as "Paso Robles." The petition was submitted by Martin Brothers Winery.

ATF believes the establishment of American viticultural areas and their subsequent use as appelation of origin in wine labeling and advertising allows wineries to better designate the specific grape-growing area where their wines come from and allows consumers to better identify the wines they purchase.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Roger Bowling, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising the wine labeling regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas, and allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertising.

On October 2, 1979, ATF published Treasury Decision AFT- 60 (44 FR 56692) adding a new Part 9 to 27 CFR for the listing of approved American viticultural areas.

27 CFR 9.11 defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. 27 CFR 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition must include:

(a) Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition.

(b) Historical or current evidence that the boundaries of the proposed area are as delineated in the petition.

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from the surrounding areas.

(d) A description of the proposed boundaries of the proposed viticultural area, based on features found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale.

(e) A copy of the appropriate U.S.G.S. map with boundaries prominently marked.

Rulemaking Process for Paso Robles Viticultural Area

The petition for the establishment of the "Paso Robles" viticultural area was filed by Martin Brothers Winery and was accompanied by signatures of the grape-growers and wineries of the proposed area. ATF believed the petition contained the necessary elements with sufficient evidence to warrant a notice of proposed rulemaking.

ATF published Notice No. 448 on January 17, 1983 (48 FR 1985), proposing the establishment of the Paso Robles viticultural area. One comment was received concerning portions of the western boundaries.

General Information

Wine grapes have been grown in the Paso Robles area since the founding of the California missions. Mission San Miguel, founded in 1797, produced wine and it is assumed that the grapes were harvested in nearby areas. The records of the San Luis Obispo County assessor's office show grape plantings of the county and presumably most of the plantings were within the boundaries of the proposed viticultural area. The earliest date was 1873 showing that approximately 40 acres were in vineyards.

One winery established in the last century is still involved in wine production, Rotta Winery, now Las Tablas Winery (1890). In addition to this winery, there are twelve others and one under construction. There are currently 62 existing vineyards in the Paso Robles viticultural area comprising approximately 5,000 acres with more grape plantings planned, generally adjacent to or in close proximity to the existing vineyards. The area comprises approximately 614,000 acres.

In 1914, Ignace Paderewski, the famous Polish pianist, conductor, and statesman, established a vineyard on his ranch. The Zinfandel grape was introduced to the area in this vineyard. Wine produced by York Mountain Winery from this vineyard was awarded a gold medal at the California State Fair.

Evidence Relating to the Name

The name of the area dates from the late 18th Century, the missionary period of the area. The full Spanish name is "El Paso de Robles" or "the Pass of the Oaks." This name was given by travelers between the mission of San Miguel, located within the boundaries of the viticultural area, and Mission San Luis Obispo. A land grant, in this name, was conveyed by Governor Micheltorena to Pedro Narvaez on May 12, 1844. This land grant includes the present areas of Paso Robles, Templeton, and Adelaida. The land grant was patented on July 20, 1866, to Petronillo Rios.

In 1857 the Paso Robles land grant was purchased by three men. These men, capitalizing on the hot springs and mud baths of the area, set out to make the Paso Robles Hot Springs one of the finest resort spas in the Country and built the first of the famous hotels. The community serving the hotel and resort visitors was incorporated as the City of El Paso de Robles on February 25, 1889. Since that time, the entire area of the viticultural area has been referred to as the Paso Robles area.

There are numerous streams, hills, and small rural areas within this general area known by other names, however, the one unifying name of the entire area is "Paso Robles."

ATF believes this evidence supports adopting "Paso Robles" as the name of the viticultural area.

Geographical Characteristic

The Paso Robles viticultural area is generally characterized by rolling hills and valleys with an average elevation between 600 and 1,000 feet. The soils of the area are generally alluvial and terrace deposits, usually fertile and well-drained.

The area is bounded on the west and south by the Santa Lucia Mountain range whose crest averages between 2,300 and 2,850 feet. The Cholame Hills to the east crest at about the 3,000-foot elevation. The Salinas River has its headwaters at Santa Margarita Lake just south of the proposed boundary and flows northward through the proposed area into the Salinas Valley located in Kings and Monterey Counties. The Salinas River is the major drainage of the area, although it is also characterized by numerous creeks and streams.

The area is protected from marine air intrusion and coastal fogs by the Santa Lucia Mountains on the west and south. This is a marked contrast to the area to the west and south where such coastal fogs are common with cooler temperatures in the summer months.

The Paso Robles viticultural area is classified as Region III, with 3,001 to 3,500 degree days of heat. This characterizes the proposed area with a warmer climate by 500 to 1,000 degree days than the area to the west and south, and a cooler climate by 500 or more degree days than the area lying to the east.

Rainfall within the area averages between 10 and 25 inches annually. Rainfall within the area is highest on the crest of the Santa Lucia Mountain range and decreases regularly to the east. Growers generally augment the rainfall by irrigation from wells and reservoirs.

The area has a diurnal (beginning and ending of the day) temperature change of 40 to 50 degrees. This results from low to moderate humidity which is conducive to radiant cooling of the land surface. Regular afternoon winds disturb the local inversions, thereby promoting radiative cooling.

The area to the west and south of the Paso Robles viticultural area has a diurnal fluctuation of between 20 and 30 degrees caused by the flow of cool, moist marine air accompanied by fog intrusions. The area east of the area has a climate associated with the San Joaquin Valley, that is, less radiative cooling, more stable inversions, and higher evening temperatures.

Boundaries

The boundaries of the Paso Robles area are characterized by township and range lines, the county line, and straight lines from points of reference. The petitioner stated that these boundary descriptions are the most practical approximation of the ridge lines that enclose the viticultural area. During the comment period, one commenter raised an objection to the western boundary. As proposed, the boundary included portions of the proposed York Mountain viticultural area. The commenter stated that the York Mountain area was distinguishable from the Paso Robles area. The petitioner for the Paso Robles viticultural area then amended the western boundary to begin at the next most eastern range line and then along the boundary of the old Paso Robles land grant. This amendment accomplished the exclusion of the proposed York Mountain viticultural area and further removed mountainous areas, thus delineating a more distinguishable grape-growing area and reducing the area by approximately 23,000 acres. ATF concurs with this amendment.

Subsequent to this amendment, ATF requested the petitioner to attempt to delineate the entire area by means of other than county, range, and township lines, in other words, by physical features. The petitioner consulted with the growers, vintners, and engineering advisors. The response to ATF was that there is no feasible method to delineate the boundaries by using physical features such as streams, roads, contour lines, etc. The petitioner further stated that although county, range, and township lines are used, these lines serve as the closest and most practical approximation of the ridge lines that enclose the Paso Robles viticultural area.

ATF does not encourage the use of county, range, and township lines to delineate a viticultural area. Where such features or lines closely approximate the boundaries of a geographically distinguishable area, ATF has, in the past, adopted such boundary delineations. Therefore, ATF is adopting the use of county, range, and township lines to delineate the boundaries of the Paso Robles viticultural area. A detailed description of the boundaries is found in the regulation section of this final rule.

The points of reference for the boundaries of the proposed Paso Robles viticultural area are found on one U.S.G.S. map entitled: "San Luis Obispo," scale 1: 250,000.

Executive Order 12291

In compliance with Executive Order 12291 (46 FR 13193 (1981)), ATF has determined that this final rule is not a "major rule" since it will not result in:

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

(b) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

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

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to: have significant secondary or incidental effects on a substantial number of small entities or impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

Copies of the petition, the map, the notice, this final rule, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, 12th & Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Roger Bowling, FAA, Wine and Beer Branch.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer Protection, Viticultural areas, and Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended, 27 U.S.C. 205, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in Subpart C is amended to add § 9.84 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.84 Paso Robles.

Paragraph 2. Subpart C is amended to add a new section, § 9.84, to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.84 Paso Robles

(a) *Name.* The name of the viticultural area described in this section is "Paso Robles".

(b) *Approved map.* The map showing the boundaries of the Paso Robles viticultural area is: "San Luis Obispo", NI 10-3, scale 1:250,000 (1956, revised 1969).

(c) *Boundaries.* The Paso Robles viticultural area is located within San Luis Obispo County, California. From the point of beginning where the county lines of San Luis Obispo, Kings and Kern Counties converge, the county line also being the township line between T.24S. and T.25S., in R.16E.;

(1) Then in a westerly direction along this county line for approximately 61.75 kilometers (38 miles) to the range line between R.10E. and R.11E.;

(2) Then in a southerly direction along this range line for approximately 23.6 kilometers (14.5 miles) to the second point of intersection with the boundary of the old Paso Robles land grant;

(3) Then following the boundary of the Paso Robles land grant, beginning in an easterly direction, to a point where it intersects the range line between R.11E/R.12E.;

(4) Then in a southeasterly line for approximately 26.8 kilometers (16.5 miles) to the point of intersection of the township line between T.29S. and T.30S. and the range line between R.12E. and R.13E.;

(5) Then in an easterly direction for approximately 9.6 kilometers (6 miles) to the range line between R.13E. and R.14E.;

(6) Then in a northerly direction for approximately 9.6 kilometers (6 miles) to the township line between T.28S. and T.29S.;

(7) Then in an easterly direction for approximately 30 kilometers (18 miles) to the township line between T.16E. and T.17E.;

(8) Then in a northerly direction for approximately 38.4 kilometers (24 miles) to the point of beginning.

Signed: August 30, 1983.

Stephen E. Higgins,
Director.

Approved: September 14, 1983.

David Q. Bates,
Deputy Assistant Secretary, (Operations).

[FR Doc. 83-27058 Filed 10-3-83; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 251

[DoD Directive 4175.1]

Sale of Government-Furnished Equipment or Materiel and Services to U.S. Companies for Commercial Export

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule is issued to provide policy, assign responsibilities within the Department of Defense, and prescribe procedures to implement section 30 of the Arms Export Control Act to authorize the sale of government-furnished equipment or materiel and services to U.S. companies for commercial export.

DATE: This rule was approved and signed by the Deputy Secretary of Defense on July 8, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Wise, Defense Security Assistance Agency, Washington, D.C. 20301, telephone (202) 697-8108.

SUPPLEMENTARY INFORMATION: Under Executive Order 12423, May 26, 1983, the President delegated his authority under section 30 of the Arms Export Control Act to the Secretary of Defense. This rule redelegates that authority, subject to the provisions of the rule, to the Secretaries of the Military Departments.

1. *Executive Order 12291.* The Department of Defense has determined that this rule is not a major rule because it is not likely to result in an annual effect on the economy of $100 million or more.

2. *Paperwork Reduction Act.* This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

3. *Regulatory Flexibility Act.* The Under Secretary of Defense for Policy certifies that this rule shall be exempt from the requirements under 5 U.S.C. 601-612.

List of Subjects in 32 CFR Part 251

Sale of government-furnished equipment, Materiel, Government property, U.S. companies, Commercial export, Exports.

Accordingly, 32 CFR is amended by adding a new Part 251, reading as follows:

PART 251—SALE OF GOVERNMENT-FURNISHED EQUIPMENT OR MATERIEL AND SERVICES TO U.S. COMPANIES FOR COMMERCIAL EXPORT

Sec.
251.1 Purpose.
251.2 Applicability.
251.3 Policy.
251.4 Definition.
251.5 Procedures.
251.6 Responsibilities.

Authority: E.O. 11958 as amended by E.O. 12423, 22 U.S.C. 2751-2796c, Pub. L. 97-392, 96 Stat. 1963.

§ 251.1 Purpose.

This Part implements E.O. 11958 as amended by E.O. 12423 which delegates to the Secretary of Defense the functions conferred upon the President by Section 30, Chapter 2B, of Pub. L. 97-392; and provides policy, assigns responsibilities, and prescribes procedures.

§ 251.2 Applicability.

This Part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

§ 251.3 Policy.

(a) The Department of Defense executes the authority provided by Section 30, Chapter 2B, "Arms Export Control Act," to sell to U.S. companies defense articles and defense services (hereafter also "items") in connection with proposed exports on a direct commercial basis pursuant to State Department license or approvals under 22 CFR 121.30 and 22 U.S.C. 2778-2779.

(b) Such sales may be authorized only if the following applies:

(1) The items are of a type approved for foreign military sales (FMS);

(2) Sale to a U.S. company under this part would simplify and expedite the direct commercial sale involved;

(3) The items are of the type that would be supplied to the prime contractor as government-furnished equipment (GFE) or materiels (GFM) for manufacture or assembly into end items for use by the Military Services, and have in fact been supplied as GFE or GFM in connection with any past or present DoD procurement of such end items; and

(4) The other provisions of this part are complied with.

§ 251.4 Definition.

Authorized Purchasers. A company incorporated in the United States as defined in § 251.4 (a) and (c) or in § 251.4 (b) and (c).

(a) The existing prime contractor for the specific end item with a DoD contract for final assembly or final manufacture in the United States of the end item for use by the Military Services.

(b) A known DoD-qualified producer of the end item to be used by the Military Services, or one considered by the commanding officer of the Military Department procuring activity to be a responsible contractor for final assembly or final manufacture in the United States of the end item for use by the Military Services, and which is not debarred, ineligible, or suspended for defense procurement contracts.

(c) A U.S. manufacturer which has an approved license under the International Traffic in Arms Regulations which provides for the use of GFE or GFM in the direct commercial export to a foreign country for the use of the armed forces of that country or international organization. The license shall identify the defense end item being sold and exported, the quantity and identification of concurrent and follow-on spares, end item delivery schedule, and name of the ultimate user.

§ 251.5 Procedures.

(a) *Defense Articles and Defense Services Authorized for Sale.* (1) Defense items that currently are in fact being furnished by the U.S. Government as GFE or GFM to a U.S. company that is or has been under contract to the Department of Defense for final assembly or final manufacture into an end item for use by the Military Services.

(2) Defense services that are directly associated with the installation, testing, and certification of GFE that are or have been in fact provided by the U.S. Government to a U.S. company in connection with the U.S. Government procurement of similar end items for use by the Department of Defense. Such defense services, including transportation under § 251.5(d)(3)(ii), may be performed only in the United States and only in support of the sale of defense articles under this part that is, services alone may not be provided under this Part.

(3) Defense items shall not be procured by the Department of Defense for sale under Section 30 if they are available to the authorized purchaser directly from U.S. commercial sources at such times as may be required to meet the delivery schedule of the authorized purchaser.

(b) *Pricing, Financing, and Accounting.* (1) To afford U.S. companies the ability to conduct planning and marketing of end items, Military Departments are authorized to provide cost and delivery scheduling data to authorized potential purchasers (see § 251.4, above) in advance of execution of a sales agreement. Such data shall be identified as estimates and shall not be binding on the U.S. Government. Efforts shall be made to provide accurate data.

(2) Actual sales of defense items shall be made in cash, with payment upon signature of the sales agreement by the representatives of the U.S. Government and the U.S. company. Payment shall be received by the U.S. Government in full and in U.S. dollars upon such signature and shall precede procurement action by the U.S. Government or, in cases of stock sales, delivery to the authorized purchaser.

(3) Sales prices for procurement, or sales from DoD stocks under Section 30 shall be established in accordance with DoD 7290.3–M. Prices to be charged shall be the same as those established for FMS of the same defense articles and services, to include all applicable FMS surcharges and accessorial charges, including an amount for administration not less than the FMS administrative surcharge. Full replacement cost pricing shall be used for all sales of defense articles from DoD stocks and all diversions from DoD procurement, even when a lower price could be charged under FMS pricing principles.

(4) U.S. Government fiscal obligation for a procurement contract may not exceed the cash received from the sale, nor may the replacement cost of defense articles delivered from DoD stocks exceed the cash received from the sale. If there is an increase in the procurement contract cost, the purchaser shall be required to make additional cash payment to the Military Service to fund the contract fully, plus applicable Surcharges, when such an increase is known.

(5) Accountability shall be in accordance with DoD 7290.3–M with reimbursements from sales being credited to the current appropriation, fund, or account of the selling agency. surcharges, such as nonrecurring cost recoupment charge, asset use charge, and FMS administrative surcharge, shall be accountable as FMS surcharges under DoD 7290.3–M.

(c) *Establishment of Priorities and Allocations.* (1) Unless otherwise directed by the Under Secretary of Defense for Policy in coordination with the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), sales are not authorized if they result in inventory stockage levels dropping below the established reorder points. Except as provided in section 21(i) of the Arms Export Control Act, sales are not authorized if they constitute a withdrawal of assets from U.S. stocks that result in a significant adverse impact on the combat readiness of the Military Services.

(2) When procurement is required, or manufacture in government-owned facilities is necessary, the Military Department concerned shall determine whether a sale will be concluded. Unless directed by the Defense Security Assistance Agency (DSAA) (see § 251.5(c)(3), below) the Military Department concerned is responsible for the establishment of priorities for procurement or manufacture and for allocations and delivery of military equipment and services. In determining production priorities and allocations, the Military Departments shall consider fully all existing DoD requirements for U.S. and other foreign requirements and normally will schedule delivery, manufacture, and allocation on a first-in, first-out basis. In making such determinations the Military Departments shall be guided by DoD Directives 4410.6 and related assignments of force activity designators by the Joint Chiefs of Staff.

(3) If there are two or more competing foreign requirements, the Director, DSAA, shall determine priorities or shall make allocations. Such priorities or allocations for foreign requirements shall supersede determinations made by the Military Department under § 251.5(c)(2), above.

(d) *Sales Agreement.* (1) The sales agreement with the U.S. company will identify the company, the items and quantities being sold, the estimated availability of the items, whether from DoD stocks or procurement, the estimated price of the items, the end item into which the GFE or GFM item or items will be incorporated for resale, the identity of the foreign purchaser and the number and date of the munitions export license, or State Department approval.

(2) The sales agreement shall be approved by the appropriate Military Department's General Counsel and shall, as a minimum, indicate that the U.S. Government:

(i) Retains the right to cancel in whole or in part or to suspend performance at any time under unusual or compelling circumstances if the national interest so requires.

(ii) Provides no warranty or guarantee, either expressed or implied, regarding the items being sold.

(iii) Shall provide best efforts to comply with the delivery leadtime cited, but will incur no liability for failure to meet an indicated delivery schedule.

(iv) Shall use its best efforts to deliver at the estimated prices, but that the purchaser is obligated to reimburse the U.S. Government for the total cost if it is greater than the estimated price.

(3) Moreover, the sales agreement shall state that:

(i) Payment terms are cash, payable in advance, in accordance with § 251.5(b)(2), above;

(ii) Delivery shall be "FOB origin" with purchaser to arrange for continental U.S. (CONUS) transportation, except for sensitive or hazardous cargo that normally shall be shipped by way of the Defense Transportation Service (DTS) at rates established in DoD 7290.3–M;

(iii) The purchaser is responsible for both insurance coverage, if desired, and ultimate customs clearance for export;

(iv) The purchaser is required to reimburse the U.S. Government for all costs incurred by the U.S. Government if the purchase agreement is canceled by the purchaser before delivery of the defense materiel or completion of defense services.

(v) The purchaser renounces all claims against the U.S. Government, its officers, agents, and employees arising out of or incident to this agreement, whether concerning injury to or death of personnel, damage to or destruction of property, or other matters, and will indemify and hold harmless the U.S. Government, its officers, agents, and employees against any such claims of third parties and any loss or damage to U.S. Government property.

(vi) The items sold to foreign governments on a direct commercial basis under an approved export license may be used only for incorporation into end items or as concurrent or follow-on support in conjunction with a sale of the end item and for no other purpose. The U.S. company agrees to provide for protection of classified information and will require the agreement with the foreign government to provide for protection of U.S. classified information.

§ 251.6 Responsibilities.

(a) The *Under Secretary of Defense for Policy*, or designee, shall provide overall guidance regarding the sale of GFE or GFM to U.S. companies for commercial export.

(b) The *Director, Defense Security Assistance Agency*, shall:

(1) Monitor the sale of GFE or GFM to U.S. companies and implementation of this Directive.

(2) Determine priorities or make allocations between two or more competing foreign requirements.

(c) The *Secretaries of the Military Departments:*

(1) Shall execute the functions conferred upon the Secretary of Defense by Section 30 of the Arms Control Act.

(2) May redelegate the authority under Section 30 but such delegation may not be below the level of the commanding officer or head of a procuring activity of the Military Department responsible for procurement or acquisition of the applicable end item.

(3) Shall provide a quarterly report to the Director, DSAA, of sales made to U.S. companies under Section 30.

(d) The *Assistant Secretary of Defense (Comptroller)* shall monitor pricing compliance and financial administration set forth under DoD 7290.3-M.

Dated: September 26, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-26739 Filed 10-3-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3-83-44]

Special Local Regulations; Head of the Connecticut River, Middletown, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Head of the Connecticut River Regatta being sponsored by the City of Middletown, Connecticut. This event will be held on October 9, 1983 between the hours of 9:45 a.m. and 5:00 p.m. This regulation is needed to provide for the safety of participants and spectators on navigable waters during the event.

EFFECTIVE DATE: This regulation becomes effective from 9:00 a.m. to 6:00 p.m. on October 9, 1983.

FOR FURTHER INFORMATION CONTACT: LTJG D.R. Cilley, (212) 668-7974.

SUPPLEMENTARY INFORMATION: On August 18, 1983 the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (48 FR 37433). Interested persons were requested to submit comments and one comment was received. The regulation is being made effective in less than 30 days from the date of publication. There was not sufficient time remaining in advance of the event to provide for a delayed effective date.

Drafting Information

The drafters of this notice are LTJG D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Office, and Ms. Mary Ann Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The annual Head of the Connecticut River Regatta sponsored by the City of Middletown, Connecticut is well know to the boaters and residents of this area. In the past years it has grown to become one of the largest crew shell race events of its type on the East Coast. Approximately 400 crew shells will race against the clock in 18 heats during the day. The sponsor will provide 6-8 vessels to help patrol this event in conjunction with Coast Guard and local authority resources. The State of Connecticut submitted a comment suggesting that this regulation be enforced jointly by the Coast Guard and the State of Connecticut. Both the Coast Guard and Connecticut have concurrent jurisdiction and will patrol the event. Few spectator craft are expected due to the late date of this event. The race course and other organizational details have not been altered from last year.

There was no problem with last year's regulation, therefore this regulation remains virtually unchanged. The Coast Guard will restrict vessel movement within this section of the Connecticut River during the event to provide for the safety of the participants and spectators.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended by adding a temporary § 100.35-309 to read as follows:

§ 100.35-309 Head of the Connecticut River Regatta, Middletown, Connecticut.

(a) *Effective Dates:* This regulation shall be effective from 9:00 a.m. to 6:00 p.m. on October 9, 1983.

(b) *Regulated Area:* That section of the Connecticut River between the southern tip of Gildersleeve Island and Light Number 87.

(c) *Special Local Regulations:* (1) No person or vessel shall enter or remain in the regulated area unless participating in the event or authorized by the event sponsor or Coast Guard patrol personnel.

(2) No spectator or transiting vessel shall be allowed to go out onto or across the regulated area without Coast Guard escort.

(3) Vessels awaiting passage through the regulated area will be held in the vicinity of the southern tip of Gildersleeve Island, if southbound and at Light Number 87 if northbound, until they are escorted at no wake speeds by Coast Guard patrol personnel through the race course.

(4) The sponsor shall not start any race after 5:30 p.m. on October 9, 1983.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(46 U.S.C. 454; 49 U.S.C 1655(b); 49 CFR 1.46(b) and 33 CFR 100.35)

Dated: September 28, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83-27009 Filed 10-3-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD3 82-010]

Drawbridge Operation Regulations; Beaver Dam Creek, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Ocean County, New Jersey, the Coast Guard is changing the regulations governing the Beaver Dam Creek (Beaver Dam Road) drawbridge between Brick Township and Point Pleasant Borough, New Jersey by revising the times that the bridge will be required to open on signal and by amending the advance notice required. This change is being made to be responsive to the needs of the mariner while considering surface transportation. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on November 3, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On March 31, 1983, the Coast Guard published a proposed rule (48 FR 13443) concerning this amendment. The Commander, Third Coast Guard District also published this proposal as a Public Notice dated April 5, 1983. In each notice interested persons were given until May 16, 1983 to submit comments.

Drafting Information

The drafters of this rule are Ernest J. Feemster, Project Manager, and LCDR Frank E. Couper, Project Attorney.

Discussion of Comments

One comment was received on the public notice and the respondent proposed a revision to the dates and times and frequency of opening of the bridge based on reported delays to vehicular traffic. The dates, times and overall bridge operation as proposed were based on consultation with Ocean County and local marina owners. This was explained to the respondent. It was also suggested to the respondent that comments be referred to Ocean County (bridge owner) since operation of the drawbridge is their ultimate responsibility.

The requirement to open the draw as soon as possible for a public vessel of the United States during times the bridge may be unmanned is added in this final rule. This will not greatly affect the substance of this rule.

No draft or final economic evaluation has been prepared for this rulemaking because of minimal economic impact. This is because no marina or other operations will be adversely affected.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities since no persons or entities will be greatly affected.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.225(f)(8) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(8) Beaver Dam Creek: Ocean County highway bridge, mile 0.5 near Point Pleasant. The draw shall open on signal as follows:

(i) October and November between 6 a.m. and 10 p.m.

(ii) December through February between 8 a.m. and 4 p.m.

(iii) March and April between 6 a.m. and 10 p.m

(iv) May through September 24 hours per day.

The draw shall open on signal at all other times if at least eight hours advance notice is given and shall open as soon as possible for a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: September 21, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 83-27008 Filed 10-3-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2342-7]

State Implementation Plans; Final Action; Illinois

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

ACTION: Notice of final rulemaking.

SUMMARY: This notice announces EPA's final rulemaking on three revisions to the Illinois State Implementation Plan (SIP), pursuant to Part D of the Clean Air Act. This action approves three regulations submitted by Illinois concerning particulate matter emissions from iron and steel sources.

EFFECTIVE DATE: This final rulemaking becomes effective on November 3, 1983.

ADDRESSES: Copies of these revisions, the comments received, and other materials related to EPA's approval are available for inspection at:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

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

The Office of the Federal Register, 1100 L Street, NW., Rm. 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2211.

SUPPLEMENTARY INFORMATION: On November 24, 1982 (47 FR 53057), EPA announced its proposal to approve four revisions as a part of the Illinois SIP. These revisions, codified by the State as Rules 203(d)(5)(B)(iii), 203(d)(5)(B)(ix), 203(d)(5)(L) and 203(d)(5)(M), concern the regulation of particulate matter emissions from iron and steel sources in

nonattainment areas in the State of Illinois.

Rule 203(d)(5)(B)(iii) requires all coke facilities to be equipped with pushing systems with particulate control equipment which shall be designed to capture at least 90 percent of all particulate emissions from pushing operations. Rule 203(d)(5)(B)(ix) provides that no person shall cause or allow the operation of a by-product coke plant except in accordance with operating and maintenance work rules approved by the Illinois Environmental Protection Agency (IEPA). Rule 203(d)(5)(L) provides dates for compliance with Rule 203(d)(5). Rule 203(d)(5)(M) provides that the provisions of Rule 203(d)(5)(L) are not severable.

Rules 203(d)(5)(B)(iii) and 203(d)(5)(L) had been disapproved by EPA in an earlier rulemaking (46 FR 44172, September 3, 1981). No action was taken on Rules 203(d)(5)(B)(ix) or 203(d)(5)(M) in that earlier rulemaking. The November 24, 1982 notice of proposed rulemaking announced EPA's determination that, as a result of discussions with IEPA, all four revisions should be proposed for approval. EPA is today taking final action to approve Rules 203(d)(5)(B)(iv), 203(d)(5)(L), and 203(d)(5)(M). EPA anticipates that it will take final action on Rule 203(d)(5)(B)(iii) in the near future.

An error occurred in the September 3, 1981 (46 FR 44172), notice of final rulemaking. The codification portion was incomplete. In particular, Title 40 of the Code of Federal Regulations, Chapter 1, Part 52, Subpart O—Illinois, § 52.720(c), Paragraph (19) should have been modified to include receipt of the Illinois Pollution Control Board final order to control particulate emissions from iron and steel sources (Rule 203(d)). The codification for today's final rulemaking corrects this error.

In response to EPA's November 24, 1982 proposal, comments were received from two sources, an environmental group and the legal representative of several steel companies. Many of the comments made by the steel companies were related to EPA's Response to Petitions for Reconsideration, also published on November 24, 1982 (47 FR 53000). Those comments are not pertinent to this rulemaking, and have not been addressed in this Notice. The comments made about the three revisions on which EPA is acting today, and EPA's responses, are summarized below.

Comment: The steel companies argued that, by approving Rule 203(d)(5)(L), which required compliance with Rule 203(d)(5) by December 31, 1982, the iron and steel industry will have no time to come into compliance.

Response: By today's action EPA is not imposing any requirements on iron and steel facilities greater than had been in effect under state law since 1979. The iron and steel industry in Illinois has had more than three years to come into compliance with those rules. Therefore, any failure to comply will expose a subject facility to enforcement action.

Comment: The environmental group commented that each operating permit issued under Rule 203(d)(5)(B)(ix) should state that compliance with a permit is not a defense to non-compliance with the emission standards appearing elsewhere in the rules.

Response: As a legal matter, EPA believes that work rules developed under this rule supplement but do not amend applicable emission limits. Illinois SIP Rule 103(h) states that the existence of a permit is not a defense to a violation of any air pollution regulation. In any case, any work program which changed a SIP requirement would have to be submitted to EPA as a SIP revision. Therefore, EPA does not believe it is necessary to include such additional language in each state permit.

Final Action: Taking into account the comments made on these three revisions to the Illinois SIP, EPA approves Illinois Rules 203(d)(5)(B)(ix), 203(d)(5)(L) and 203(d)(5)(M).

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

Under Section 307(b)(1) of the Clean Air Act, petition for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of the date of this Notice. This action may not be challenged later in actions to enforce its requirements (See sec. 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

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

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

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: September 22, 1983.

William D. Ruckelshaus,

Administrator

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

1. Section 52.720(c) is amended by revising paragraph (19) to read as follows:

§ 52.720 [Amended]

* * * * *

(c) * * *

* * * * *

(19) On October 30, 1979, the State submitted copies of Illinois Pollution Control Board final orders for control of VOC emissions from stationary sources (Rule 205), sources of fugitive particulate (Rule 203(f)), and particulate emissions from iron and steel sources (Rule 203(d)).

* * * * *

2. Section 52.725(b)(2) is revised by deleting reference to Rule 203(d)(5)(L), to read as follows:

§ 52.725 Control Strategy: Particulates.

* * * * *

(b) * * *

(2) U.S. EPA disapproves the following portions of Rule 203(d)(5) which regulate the control of particulate matter from specific sources within the iron and steel industry: Rule 205(d)(5)(B)(ii), Rule 205(d)(5)(B)(iii), Rule 205(d)(5)(D), and Rule 205(d)(5)(K).

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[FR Doc. 83-26732 Filed 10-3-83; 8:45 am]

BILLING CODE 6560-50-1-M

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40 CFR Part 52

[A-6-FRL 2444-4]

Approval and Promulgation of Implementation Plans; Texas Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: As required by section 110 of the Clean Air Act and the October 5, 1978, promulgation of national ambient air quality standards (NAAQS) for lead (43 FR 46246), the State of Texas has submitted a State Implementation Plan (SIP) for lead. As proposed in the **Federal Register** on January 4, 1983 (48 FR 277), this action approves the Texas lead SIP, which provides for attainment

and maintenance of the NAAQS for lead throughout the State, except for the Dallas and El Paso areas. These two areas will be addressed in a future rulemaking. This action amends the Code of Federal Regulations, Part 52, at Subpart SS, sections 52.2270 and 52.2279.

EFFECTIVE DATE: This action will be effective on November 3, 1983.

ADDRESSES: Incorporation by reference materials is available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street, NW., Rm. 8401, Washington, D.C. 20460

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

Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

FOR FURTHER INFORMATION CONTACT: Ken Greer, State Implementation Plan Section, Air Branch, EPA Region 6, Dallas, Texas 75270, (214) 767–9859 or FTS 729–9859.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air (ug lead/m^3), averaged over a calendar quarter. As required by section 110 of the Clean Air Act (CAA), and the October 5, 1978, promulgation of lead SIP requirements (43 FR 46264) codified at 40 CFR 51.80 *et seq.* (1982), all States must submit a SIP which will provide attainment and maintenance of the lead NAAQS. Texas has developed and submitted such a SIP.

The general requirements for a SIP are outlined in section 110 of the Clean Air Act and EPA regulations, 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. These provisions require the submission of air quality data, emission data, air quality modeling, control strategies for each area exceeding the NAAQS, a demonstration that the NAAQS will be attained within the timeframe specified by the CAA, and provisions for maintenance of the NAAQS. EPA has evaluated the Texas lead SIP by comparing it to the requirement for an approvable SIP, as set forth in the above mentioned regulations. EPA's evaluation of the Texas lead SIP, not including the Dallas and El Paso parts of the SIP, was explained in the Evaluation Report which accompanied the proposed rulemaking published on January 4, 1983 (48 FR 277). (See Evaluation Report, available at addresses listed above.) One public comment on the EPA's proposed action was received, and the public comment is addressed in this notice. This action is a final rulemaking which approves the Texas lead SIP, except for the Dallas and El Paso areas of the State, which will be addressed in a future rulemaking.

II. Description of the Texas SIP

On June 12, 1980, the Governor of Texas submitted to EPA the State's SIP for attainment and maintenance of the NAAQS for lead. Additional information concerning this action on the State's lead SIP was submitted to EPA in letters dated January 29, 1982, March 15, 1982, June 3, 1982, June 15, 1982, August 23, 1982, and October 14, 1982, as explained in EPA's Evaluation Report that was the basis for the proposed rulemaking on the Texas lead SIP. The State has submitted an additional letter, dated December 3, 1982, which provided a point source control plan for a source located in Frisco, Texas. The point source control plan, along with other information, was requested by EPA as explained in detail in EPA's proposed rulemaking and Evaluation Report. The information submitted by Texas, including the point source control plan, is discussed below.

In EPA's proposed rulemaking, the State of Texas was requested to, and agreed to, submit to EPA an assurance that lead point sources in the State that had previously shut down permanently would be subject to new source permit review if reopened, or, if needed, will be subject to control plan development before the sources began operating again. In its October 14, 1982, letter to EPA, Texas assured EPA that the above mentioned permit review, or control plan development, would be accomplished before a lead source in the State that was currently shut down did indeed reopen (which has not occurred, nor is it expected). Also in the October 14, 1982, letter, the State assured EPA that all new lead sources with the potential to emit five or more tons of lead per year would be subject to the State's new source permit review, which has been previoulsy approved by EPA.

In the proposed rulemaking, the State was requested to submit a final Texas Board Order, number 82–11, which provided for an acceptable control plan for a lead point source, Gould Inc., located in Frisco, Texas. The State had submitted a draft Board Order for Gould and supporting information, such as an emission inventory and modeling for Gould, in a letter dated June 15, 1982 (discussed and reviewed in EPA's Evaluation Report). The State submitted the final, signed Board Order, number 82–11, in a letter dated December 3, 1982. The final Board Order is the same as the draft Board Order that EPA has previously reviewed, and it provides for the attainment and maintenance of the lead NAAQS around the Gould facility by means of installation of control equipment by late 1982. The Board Order is incorporated into the Texas lead SIP and is approved by EPA.

Also in the proposed rulemaking, the State was requested to monitor for lead around a lead point source, Lone Star Steel, located in Lone Star, Texas. The State had previously committed to the monitoring around Lone Star Steel in its October 14, 1982, letter at which time the steel manufacturing plant had shut down its operation for an undetermined amount of time. Monitoring information near Lone Star was obtained by Texas for five months in late 1982 and early 1983, all values were less than 0.1 μg lead/m^3. Due to the low values that were monitored, the State does not intend to collect any more lead monitoring data until Lone Star Steel starts up operations, at which time the State will continue to monitor for lead. Since the lead values monitored by TACB were low, and EPA modeling shows no violations off of company property, and Lone Star Steel remains shut down, EPA is approving the State SIP for the Lone Star area of Texas. If Lone Star Steel reopens, and if monitored exceedances of the lead NAAQS are obtained by TACB, the State has committed in its October 14, 1982, letter to EPA to develop a control plan for the steel manufacturing plant and to submit the control plan to EPA for approval. In general, the Texas air quality monitoring system for lead meets the requirements of 40 CFR Part 58 (46 FR 44159, September 3, 1981), for most parts of the State to which this rulemaking is applicable. The Dallas and El Paso lead monitoring network will be discussed in a future rulemaking. EPA is negotiating with the State for adequate monitoring sites in the Beaumont, Houston, and Lone Star areas of Texas. In the next few months, EPA intends to make the Texas air quality monitoring system for lead final with the State. The public may inspect the description of the currently operating air quality monitoring network for lead at the address listed for EPA, Region VI, Air Branch, in the **ADDRESSEES** section of this notice.

Since this rulemaking is taking no action on the lead plans for the Dallas and El Paso areas, information

concerning these areas will only be briefly mentioned in this notice. Texas has submitted, or has agreed to submit, additional information concerning the Texas lead SIP for the Dallas and El Paso areas. In its letter of October 14, 1982, Texas had committed to submit schedules to EPA for the development of a lead control plan for both Dallas and El Paso. In a letter dated January 28, 1983, Texas submitted the schedules for the development of lead control plans for both areas. The State is diligently working to complete these plans for submittal in the upcoming months to EPA for approval. The lead control plans for the two areas and EPA's action on the Texas lead SIP for Dallas and El Paso areas will be fully discussed in a future rulemaking.

III. Public Comments

One public comment letter was received which provided comments on EPA's proposed rulemaking of January 4, 1983. A letter from PPG Industries provided information that its facility in Beaumont, Texas, would cease production of lead compounds in early 1983. The comment letter requested that the facility be removed from the "National Inventory for Lead Air Emissions." The Beaumont facility will have its emission inventory for lead adjusted to agree with the current information that production of lead compounds has ceased at the facility, which was confirmed by correspondence with the PPG facility in Beaumont. But since recycling of materials containing lead, plus some production of elemental lead, will continue in the near future as part of the clean-up at the facility, and since some emissions of lead (although reduced) could occur, the facility should remain listed in the Texas lead SIP emission inventory until all operations which emit lead are shutdown. The comment and request by PPG will be fulfilled by an adjustment that will be made to EPA's national inventory for lead air emissions for the Beaumont facility and by a future adjustment to the lead emission inventory in the Texas lead SIP. No other public comments were received concerning EPA's proposed actions on the Texas lead SIP.

EPA's Action

As explained in EPA's proposed rulemaking on January 4, 1983, EPA has evaluated the Texas lead SIP and determined that with the exceptions of the Dallas and El Paso areas, it meets the requirements of Section 110(a) of the CAA and 40 CFR Part 51, Subparts B and E. EPA believes that the SIP is adequate to attain and maintain the lead NAAQS and is approving the Texas lead SIP, except for the areas of Dallas and El Paso, Texas. Those two areas will be addressed and acted on in a future rulemaking. EPA finds that the Texas SIPs that have been approved for other NAAQS's contain regulations that satisfy general regulations not specifically mentioned in this lead SIP, and that these general regulations can be incorporated into the lead SIP.

Also as explained in the proposed rulemaking, the attainment date for lead for the Texas lead SIP addressed by this action is November 5, 1982. The two year extension of the attainment date is not granted by EPA for the Texas lead SIP addressed by this action, since the SIP has demonstrated that the lead NAAQS is being attained for the areas of the State affected by this action.

The public should be advised that this action will be effective on the date listed in the **EFFECTIVE DATE** section of this rulemaking. 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 within 60 days of the date of publication. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

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 Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Office of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovermental Relations.

Dated: September 26, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Title 40, Part 52, Subpart SS—Texas, of the Code of Federal Regulations is amended to include the following:

1. Section 52.2270 is amended by adding paragraph (c)(41) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(41) The Texas Lead SIP was submitted to EPA on June 12, 1980, by the Governor of Texas, as adopted by the Texas Air Control Board on March 21, 1980. Additional information was submitted in letters dated January 29, 1982, March 15, 1982, June 3, 1982, June 15, 1982, August 23, 1982, and October 14, 1982. Also additional information and Board Order 82–11 were submitted in a letter dated December 3, 1982. No action is taken regarding the Dallas and El Paso areas.

2. Section 52.2279 is amended by adding to the table the pollutant "lead" in a new column in the table as follows:

§ 52.2279 Attainment dates for national standards

Air quality control region	Pollutant	Lead
Abilene-Wichita Falls Intrastate		e
Amarillo-Lubbock Intrastate		e
Austin-Waco Intrastate		e
Brownsville-Laredo Intrastate (except Cameron County).		e
Brownsville-Laredo Intrastate (Cameron County only).		e
Corpus Christi-Victoria Intrastate (except Nueces and Victoria Counties).		e
Corpus Christi-Victoria Intrastate (Nueces County only).		e
Corpus Christi-Victoria Intrastate (Victoria County only).		e
Midland-Odessa-San Angelo Intrastate (except Ector County).		e
Midland-Odessa San Angelo Intrastate (Ector County only).		e
Metropolitan Houston-Galveston Intrastate (except Brazoria, Harris and Galveston Counties).		e
Metropolitan Houston-Galveston Intrastate (Brazoria and Galveston Counties only).		e
Metropolitan Houston-Galveston Intrastate (Harris County only).		e
Metropolitan Dallas-Fort Worth Intrastate (except Dallas and Tarrant Counties).		e
Metropolitan Dallas-Fort Worth Intrastate (Tarrant County only).		e
Metropolitan Dallas-Fort Worth Intrastate (Dallas County only).		f
Metropolitan San Antonio Intrastate (except Bexar County).		e
Metropolitan San Antonio Intrastate (Bexar County only).		e
Southern Louisiana-Southeast Texas Interstate (except Jefferson and Orange Counties).		e
Southern Louisiana-Southeast Texas Interstate (Jefferson and Orange Counties only).		e
El Paso-Las Cruces-Alamogordo Interstate (except El Paso County).		e
El Paso-Las Cruces-Alamogordo Interstate (El Paso County only).		g
Shreveport-Texarkana-Tyler Interstate (except Gregg County).		e
Shreveport-Texarkana-Tyler Interstate (Gregg County only).		e

* * * * *

e. November 5, 1982.
f. EPA taking no action until additional information and/or compliance strategy developed.
g. EPA taking no action until additional information and/or compliance strategy developed.

[FR Doc. 83-26878 Filed 10-3-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 469

[OW-FRL 2424-8]

Electrical and Electronic Components Point Source Category; Effluent Limitations Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule and request for comments.

SUMMARY: EPA is amending the compliance deadline for the best available technology economically achievable (BAT) effluent limitations guidelines for flouride in the electronic crystals subcategory. The latest possible compliance date, as determined by the permit writer, is now November 8, 1985, instead of July 1, 1984. In addition, EPA is correcting formatting errors and typographical errors in 40 CFR Part 469.

DATES: Comments are due November 3, 1983. In accordance with 40 CFR 100.01 (45 FR 26048), this interim final regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on October 18, 1983.

This regulation shall become effective on November 17, 1983.

ADDRESS: Send comments to Mr. David Pepson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Electrical and Electronic Components Phase I. The administrative record, including all comments, will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. David Pepson, Effluent Guidelines Division (WH-552), EPA, 401 M Street, SW., telephone (202) 382-7157.

SUPPLEMENTARY INFORMATION:

I. Purpose of Amendment

On April 8, 1983, EPA promulgated Clean Water Act effluent limitations guidelines, pretreatment standards, and new source performance standards for semiconductor and electronic crystal manufacturing plants. 48 FR 15382. These plants comprise two subcategories within the electrical and electronics components point source category.

Among the limitations EPA established was a best available technology economically achievable (BAT) limitation for fluoride for electronic crystal manufacturing plants. 40 CFR 469.25. EPA set a compliance deadline of "as soon as possible as determined by the permit writer, but in no event later than July 1, 1984" for this limitation. 40 CFR 469.21. EPA did not extend the compliance deadline beyond July 1, 1984 because, based on the available data in the record, EPA determined that all the direct dischargers in the subcategory had fluoride treatment in place. 48 FR 15387.

The Monsanto Company, one of the direct dischargers in the electronic crystal subcategory, notified EPA after promulgation that one of its plants does not have the necessary treatment in place for fluoride. The company indicated that it cannot meet a July 1, 1984 compliance deadline but rather will need the 31 months EPA stated may be necessary for the installation of precipitation/clarification treatment technology. 48 FR 15386. Monsanto did not bring this situation to EPA's attention during the comment period on the proposed regulation because EPA proposed that the compliance deadline would be three years from promulgation of the regulation.

Since it now appears that EPA's determination regarding compliance with the fluoride limitation was erroneous with respect to Monsanto's Spartanburg, South Carolina plant, we are amending 40 CFR 469.21 to change the BAT compliance date for fluoride to "as soon as possible as determined by the permit writer, but in no event later than November 8, 1985." This would afford Monsanto up to 31 months from promulgation of the regulation to come into compliance if the permit writer determines that Monsanto needs additional time to install precipitation/clarification technology. This is the same compliance deadline that would have been established for the electronic crystals subcategory had EPA been aware of Monsanto's status pre-promulgation. It is also the same deadline that would be established for compliance with the identical best practicable technology currently available (BPT) effluent limitations guidelines for fluoride. (When a facility has a "best engineering judgment" BPT permit, as Monsanto does, and a BPT guideline is subsequently promulgated, any reissued permit is written to require compliance with the guideline limitation as soon as possible. An "as soon as possible" BPT deadline may not extend beyond the BAT compliance deadline.)

As amended, 40 CFR 469.21 now authorizes the permit writer to extend the compliance deadline for any of the six direct dischargers in the crystals subcategory. As a practical matter, however, the amendment will not affect the other plants in the subcategory. These plants have already installed the necessary treatment technology and will not need additional time to come into compliance. Even in Monsanto's case, the permit writer retains the discretion to set the compliance deadline at any time up to November 8, 1985 if earlier compliance is achievable.

Section 469.21 also has been amended to delete the sentence containing the compliance dates for the regulated toxic and conventional pollutants. Because the compliance deadlines are established by the Clean Water Act there is no need to include these dates in the regulation. The reference to the Consent Decree in *NRDC* v. *Train* in § 469.21 is also being deleted since the Court approved the motion described in the last three sentences of the section.

II. Corrections

The following corrections are being made to 40 CFR Part 469 as it was printed in 48 FR 15382 *et seq.* First, the list of toxic organics which comprise total toxic organics (TTO) is formatted incorrectly in §§ 469.12 and 469.22. This notice corrects the format for the TTO list. In addition, EPA is correcting the typographical errors in the section headings for PSES, NSPS, PSNS, and BCT in the electronic crystal subcategory. These errors all appear on 48 FR 15396.

III. Interim Final Rule

EPA believes that use of advance notice and comment procedures would be unnecessary and contrary to the public interest. The changes made today are minor and designed to correct errors in the final regulation. Immediate promulgation will allow Monsanto's NPDES permit to be reissued in a timely manner. Therefore, EPA finds that good cause exists for adopting the amendment in interim final form.

The amendment to 40 CFR 469.21 will take effect 44 days after promulgation. EPA will consider any comments in promulgating a "final" regulation.

IV. Executive Order 12291 and Regulatory Flexibility Analysis

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. The primary purpose of the Executive Order (E.O.) is the ensure that regulatory agencies carefully evaluate the need for taking regulatory action. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. This amendment is not a major rule because its annualized cost is less than $100 million and it

meets none of the other criteria specified in paragraph (b) of the E.O.

Pub. L. 96–354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for all regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The economic impact analysis done for the April 8, 1983 regulation indicates that this amendment would not have a significant impact on any segment of the regulated population. Therefore, a formal regulatory flexibility analysis is not required.

V. OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. This amendment does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 469

Electrical and electronic equipment, Water pollution control, Waste treatment and disposal.

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, 40 CFR Part 469 is amended as follows:

1. **Authority:** Sec. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act") 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

2. Section 469.21 is revised to read as follows:

§ 469.21 Compliance dates.

The compliance date for the BAT fluoride limitation is as soon as possible as determined by the permit writer but in no event later than November 8, 1985. The compliance date for PSES for TTO is July 1, 1984 and for arsenic is November 8, 1985.

§§ 469.12 and 469.22 [amended]

3. The toxic organic compounds listed on 48 FR 15394, 15395, 15396 (April 8, 1983), 40 CFR 469.12(a) and 469.22(a) are revised as follows:

(a) The term "total toxic organics (TTO)" means the sum of the concentrations for each of the following toxic organic compounds which is found in the discharge at a concentration greater than ten (10) micrograms per liter:

1.2.4 trichlorobenzene
chloroform
1.2 dichlorobenzene
1.3. dichlorobenzene
1.4. dichlorobenzene
ethylbenzene
1.1.1 trichloroethane
methylene chloride
naphthalene
2 nitrophenol
phenol
bis (2-ethylhexyl) phthalate
tetrachloroethylene
toluene
trichloroethylene
2 chlorophenol
2,4 dichlorophenol
4 nitrophenol
pentachlorophenol
di-n-butyl phthalate
anthracene
1,2 diphenylhydrazine
isophorone
butyl benzyl pthalate
1,1 dichloroethylene
2,4,6 trichlorophenol
carbon tetrachloride
1,2 dichloroethane
1,1,2 trichloroethane
dichlorobromomethane

§ 469.26 [Corrected]

4. On 48 FR 15396, column two (April 8, 1983), the heading in 40 CFR 469.25 is corrected to read § 469.26 and the heading in 40 CFR 436.26 is corrected to read § 496.27

§§ 469.28 and 469.29 [Corrected]

5. On 48 FR 15396, column three (April 8, 1983), the heading in 40 CFR 469.27 is corrected to read § 469.28 and the heading in 40 CFR 469.28 is corrected to read § 469.29.

[FR Doc. 83-26877 Filed 10-3-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Final rule; confirmation of interim rule.

SUMMARY: This document finalizes, without change, the interim rule published on January 12, 1983, that amends the Public Health Service regulations on Federal qualification of health maintence organizations (HMOs) to provide for greater flexibility for already existing prepaid health care delivery systems to become transitionally qualified HMOs.

EFFECTIVE DATE: This rule was effective on January 12, 1983, with the publication in the **Federal Register** of the interim final rule.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Acting Associate Bureau Director for Health Maintenance Organizations, 301 443–4106.

SUPPLEMENTARY INFORMATION: On January 12, 1983 (48 FR 1301), the Department issued an interim rule with request for comments that made a minor change in 42 CFR 110.603(b)(2)(i) by providing greater flexibility for operating prepaid health care delivery systems to meet the requirements for Federal transitional qualification.

One comment on the interim rule was received. The comment was fully supportive of the regulatory amendment and offered no suggestions for revision. Accordingly, the Assistant Secretary for Health of the Department of Health and Human Services, with the approval of the Secretary of Health and Human Services, hereby adopts as a final rule the interim rule as published on January 12, 1983.

Costs to existing prepaid health care delivery systems seeking transitional qualification are somewhat lessened as a result of this rule, because it will no longer be necessary for these entities to reorganize their legal structure to receive transitional qualification. There will be no cost increases to applicants, States or local governments. Therefore, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities and an analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) is not required. Further, since these regulations do not meet any criteria for a major regulation under Executive Order 12291, a regulatory impact analysis is not required.

List of Subjects in 42 CFR Part 110

Grant programs—health, Health care, Health facilities, Health Insurance, Health maintenance organizations, Loan programs—health.

Authority: Section 215 of the Public Health Service Act, as amended, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318, as amended, Pub. L. 97–35, 95 Stat. 572–578 (42 U.S.C. 300e–300e–17).

Dated: August 3, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: September 12, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-26941 Filed 10-3-83; 8:45 am]

BILLING CODE 4160-16-M

Office of the Secretary

45 CFR Part 13

Implementation of the Equal Access to Justice Act in Agency Proceedings

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: These regulations implement the Equal Access to Justice Act, 5 U.S.C. 504 and 504 note, for the Department of Health and Human Services. They describe the circumstances under which the Department may award attorney fees and certain other expenses to eligible individuals and entities who prevail over the Department in specified administrative proceedings where the Department's position in the proceeding was not substantially justified.

DATE: This final regulation will become effective November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Darrel J. Grinstead, Assistant General Counsel, Business and Administrative Law Division, Room 5362 HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone: (202) 245-7752.

SUPPLEMENTARY INFORMATION: These rules implement Section 203 of the Equal Access to Justice Act (EAJA), Pub. L. 96-481, for agency proceedings of the Department of Health and Human Services. HHS published interim final regulations, with an invitation of comments, on March 12, 1982 (47 FR 10834). We received comments from a home health agency, a hospital, a legal services organization that represents Social Security claimants, a hospital trade association, a trade association of home health agencies, a federal employees union, and two lawyers whose firm represents home health agencies. A summary of their comments and the Department's evaluation of those comments follows:

Covered proceedings. Several commenters disagreed with the Department's determination, incorporated in § 13.3(a) and in Appendix A to the rule, that proceedings before the Provider Reimbursement Review Board (PRRB) are not covered by the EAJA except where HHS itself acts as the fiscal intermediary in the adjudication. HHS adheres to its original determination since, as we stated in the preamble to the interim rule, the Department does not control the conduct of the adjudication by a private fiscal intermediary.

For a similar reason, we have rejected other suggestions that intermediary hearings under 42 CFR 405.1801 *et seq.* are covered. The EAJA provides for fee awards only when the agency is "a party to the proceeding" (5 U.S.C. 504(a)(1)), but the Health Care Financing Administration is not a party to such intermediary hearings (42 CFR 405.1815).

One comment argued that Medicare Part B hearings are covered. However, we believe these hearings are not "adjudication[s] under [5 U.S.C. 554]" as required by the EAJA, 5 U.S.C. 504(b)(1)(C).

One comment suggested that the review of PRRB decisions by the Secretary was covered. However, this review, which is made pursuant to 42 U.S.C. 1395oo(f)(1), is not an "adjudication under [5 U.S.C. 554]" as required by the EAJA.

In the preamble to the interim final rule, we explained that adjudications of claims under the Social Security programs are not covered because the Department is not represented in these proceedings. We also wish to clarify that a second reason why these proceedings are not covered is that they are not "required to be under 5 U.S.C. 554" as required by § 13.3. Thus, the EAJA does not apply to any Social Security claims adjudications, whether or not the Government is represented.

One comment questioned the limitation in § 13.3(a) to proceedings where an agency representative "enters an appearance and participates." The commenter maintained that where (as in certain Social Security adjudications) the proceeding is a review of an agency's written determination, that determination satisfies the EAJA requirement that the proceeding be one where "the position of the United States is represented by counsel or otherwise." We have retained the limitation in the final rule. The phrase "or otherwise" does not extend the EAJA, as the commenter suggested, to cover proceedings involving a review of a written determination unless a Government representative enters an appearance and participates in the review proceeding. (Moreover, this phrase does not affect the EAJA requirement that the proceeding be an "adjudication under section 554," and, as noted above, this category does not include Social Security claims adjudications.)

One comment suggested that we adopt provisions for proceedings involving two agencies. However, the example cited by the comment, unfair labor practice complaints issued against HHS by the Federal Labor Relations Authority (FLRA), are proceedings before the FLRA, not before HHS. *See* 5 U.S.C. 7118. Thus HHS rules would not apply.

One comment asked about the statement, in § 13.3(a) of the interim rule, that parties can file applications in proceedings not listed in Appendix A, and that the issue of coverage would be resolved in the proceedings on the application. Referring to PRRB proceedings, the commenter asked what standards the PRRB would use to decide the question, whether the PRRB had authority to decide it, and whether any other means of obtaining judicial review of the rule are available. To avoid these problems, and to avoid requiring the parties to brief the question (and requiring the adjudicative officer to decide it) in every case, the Department has deleted this provision from the rule. As for judicial review of the Department's determination that a particular class of proceedings is not covered, it is not the province of a regulation to provide for means of judicial review.

Eligible applicants. One comment contended that § 13.4(b)(3)-(4) of the interim rule is wrong in applying the 500-employee limit to Section 501(c)(3) tax-exempt organizations and to agricultural cooperatives. The Department believes its position is compelled by the language of the Act and by the legislative history, both of which are specific in excepting such organizations from the net worth limitation but state the 500-employee limit without noting any exceptions. *See* H.R. Rep. No. 96-1418 at 11, 15 (1980), reprinted in [1980] U.S.C.C.A.N. 4990, 4994.

Standards for awards. One comment questioned the provision (§ 13.5(a)) that the Department's position must be substantially justified "at the time the proceeding was initiated," suggesting that circumstances might occur or facts become known during the proceeding that would make the Department's position unjustified as of that later date, and that fees and expenses incurred after that date should be recoverable. While there is theoretical merit to the comment, administrative proceedings are generally fairly brief, and it would generally be impractical to judge that the agency's position became not substantially justified in the course of a

proceeding. Thus the Department has left the language as it stands.

Another comment suggests that § 13.5(a) define what standard of knowledge the agency will be held to in evaluating the justification of its position. The reasonableness standard incorporated in the last sentence of that subsection is adequate for that purpose and Department officials would be held to know those facts that reasonable persons in their positions would know or ascertain.

One comment suggests that § 13.5(b) be clarified so that if a party prevails on some but not all of several different joined claims, but the successful claims fall short of the jurisdictional minimum amount for the particular proceeding (specifically, the $10,000 minimum for PRRB proceedings), fees could still be awarded. We have clarified the rule accordingly. The intent of the interim rule was as stated in the preamble, to preclude awards for prevailing on merely ancillary matters or on an interlocutory procedural issue. The revised language preserves that intent.

Allowable fees. One comment argued that § 13.6(a) is wrong in limiting awards to the applicant's actual expenses. However, we believe the statutory language, "fees and other expenses incurred," does not allow awards greater than the amounts the party has paid or is obligated to pay.

Three comments questioned the exclusion in § 13.6(a) of expenses reimbursable under another statute or program. We have left this provision as it stands, since the EAJA was not intended to afford parties the windfall of double reimbursement. One of those comments notes that under the Medicare program providers' legal expenses are only partially reimbursed, in a fraction depending on their Medicare utilization rates. Under the language of § 13.6(a), the EAJA award in such a case would be reduced only by that portion of the expenses that are or would be reimbursed by Medicare.

Another of those comments notes that the Medicare program subjects many providers to overall cost limits, and argues that a provider should have the option of seeking reimbursement of legal expenses under EAJA so as to escape the constraint of those limits. We have not accepted this comment because adopting its suggestion would conflict with basic principles of Medicare reimbursement. If a provider's costs exceed the cost limits, it would be inconsistent with Medicare accounting principles to assume that the excess was due to some particular expense incurred by the provider. Instead, Medicare accounting treats all expenses comparably, and any excess over the cost limits would be attributed to the totality of expenses rather than specific items. If a provider obtains an EAJA award that is to be reduced by virtue of the provider's eligibility for Medicare reimbursement, the amount of the reduction will, however, taken into account the effect of the cost limits. The cost limits will be assumed to limit all the provider's costs comparably, and thus the reduction will be adjusted to reflect the proportionate effect of the cost limits.

Procedures for considering application. One comment argued that § 13.22(a) should provide for extension of time for good cause as does § 13.23(a). However, the thirty-day limit set by the statute, 5 U.S.C. 504(a)(2), is jurisdictional, as is the analogous limit on applications in judicial proceedings, 28 U.S.C. 2412(d)(1)(B). Thus, HHS has no authority to provide for extensions.

Two comments on § 13.23(a) ask what would be the consequences of the agency's failure to file an answer within 30 days as required. A default provision such as was included in the model rules of the Administrative Conference of the United States is generally not appropriate against the Government. *Cf.* Fed. R. Civ. P. 55(e). However, the preamble to the interim rules made clear that the sanctions provision (§ 13.25(c)) applies to the agency as well as to the applicant. We have clarified that provision to make this application explicit in the rule.

A final comment suggests that § 13.27 is internally inconsistent, requiring on the one hand review by the agency head or designee before an award becomes final (§ 13.27(a)), and allowing on the other hand an award decision to become final after 30 days if no review is sought (§ 13.27(b)). We are amending § 13.27(b) to make clear that review is required to make an award final, but that the thirty-day limit cuts off a party's right to file exceptions.

Other changes. We have made clear in § 13.6(a) that only federal government payments will offset EAJA awards. We have deleted § 13.8, since delegations of authority can be made more efficiently and flexibly by memorandum.

We have revised the requirement as to the contents of an EAJA application (§§ 13.11, 13.12) to follow more closely the rule of the Justice Department. We have made clear in § 13.11(b) (now § 13.11(c)) that this regulation is not a basis for a confidentiality guarantee.

We have made clear in § 13.30 that if the previous presiding officer is not available, another person can be designated the adjudicative officer. Finally, we have amended the Appendix to reflect the transfer of civil money penalty proceedings to the Office of Inspector General.

Impact of Regulations. The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's certification is that, although small entities are eligible to apply for awards, the regulation applies only to a small number of proceedings held by the Department each year, and in many of those proceedings the Department's position will be substantially justified.

The Secretary has also determined, in accordance with Executive Order 11291, that the proposed rule does not constitute a "major rule" because it will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or geographic regions; or have any governmental agencies or geographic regions; or have significant and adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. A regulatory analysis is not required.

List of Subjects in 45 CFR Part 13

Claims, Equal access to justice, Lawyers.

Dated: July 12, 1983.

Margaret M. Heckler,

Secretary.

Title 45 of the Code of Federal Regulations is amended by revising Part 13 to read as follows:

PART 13—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart A—General Provisions

Sec.

Subpart B—Information Required from Applicants

Sec.

Subpart C—Procedures for Considering Applications

Authority: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart A—General Provisions

§ 13.1 Purpose of these rules.

These rules implement section 203 of the Equal Access to Justice Act, 5 U.S.C. 504 and 504 note, for the Department of Health and Human Services. They describe the circumstances under which the Department may award attorney fees and certain other expenses to eligible individuals and entities who prevail over the Department in certain administrative proceedings (called "adversary adjudications"). The Department may reimburse parties for expenses incurred in adversary adjudications if the party prevails in the proceeding and if the Department's position in the proceeding was not substantially justified. These rules explain how to apply for an award. They also describe what proceedings constitute adversary adjudications covered by the Act, what types of persons and entities may be eligible for an award, and what procedures and standards the Department will use to make a determination as to whether a party may receive an award.

§ 13.2 When these rules apply.

These rules apply to adversary adjudications pending before the Department between October 1, 1981 and September 30, 1984.

§ 13.3 Proceedings covered.

(a) These rules apply only to adversary adjudications. For the purpose of these rules, only an adjudication required to be under 5 U.S.C. 554, in which the position of the Department or one of its components is represented by an attorney or other representative ("the agency's litigating party") who enters an appearance and participates in the proceeding, constitutes an adversary adjudication. These rules do not apply to proceedings for the purpose of establishing or fixing a rate or for the purpose of granting, denying, or renewing a license. Department proceedings covered by these rules, if the agency's litigating party enters an appearance and participates, are listed in Appendix A.

(b) If a proceeding is covered by these rules, but also involves issues excluded under paragraph (a) of this section from the coverage of these rules, reimbursement is available only for fees and expenses resulting from covered issues.

§ 13.4 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under these regulations, the applicant must be a party, as defined in 5 U.S.C. 551(3), to the adversary adjudication for which it seeks an award. An applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B.

(b) The categories of eligible applicants are as follows:

(1) Individuals with a net worth of not more than $1 million;

(2) Sole owners of unincorporated businesses if the owner has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) Charitable or other tax-exempt organizations described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) Cooperative associations as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees, and

(5) All other partnerships, corporations, associations or public or private organizations with a net worth of not more than $5 million and with not more than 500 employees.

(c) For the purpose of determining eligibility, the net worth and number of employees of an applicant is calculated as of the date the proceeding was initiated. The net worth of an applicant is determined by generally accepted accounting principles.

(d) Whether an applicant who owns an unincorporated business will be considered as an "individual" or a "sole owner of an unincorporated business" will be determined by whether the applicant's participation in the proceeding is related primarily to individual interests or to business interests.

(e) The employees of an applicant include all those persons regularly providing services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant is not eligible if it appears from the facts and circumstances that it has participated in the proceedings only or primarily on behalf of other persons or entities that are ineligible.

§ 13.5 Standards for awards.

(a) Awards will not be made for fees and expenses where the Department's position in the proceeding was substantially justified at the time the proceeding was initiated. The fact that a party has prevailed in a proceeding does not create a presumption that the Department's position was not substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency's litigating party, which may avoid an award by showing that its position was reasonable in law and fact.

(b) When two or more matters are joined together for one hearing, each of which could have been heard separately (without regard to laws or rules fixing a jurisdictional minimum amount for claims), and an applicant has prevailed with respect to one or several of the matters, an eligible applicant may receive an award for expenses associated only with the matters on which it prevailed if the Department's position on those matters was not substantially justified.

(c) Awards for fees and expenses incurred before the date on which a proceeding was initiated will be made only if the applicant can demonstrate that they were reasonably incurred in preparation for the proceeding.

(d) Awards will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if other special circumstances make an award unjust.

§ 13.6 Allowable fees and expenses.

(a) Awards will be limited to the rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses. Awards will not be made for more than the applicant's actual expenses. If a party has already received, or is eligible to receive, reimbursement for any expenses under another statutory provision or another program allowing reimbursement, its award under these rules must be reduced by the amount the prevailing party has already received, or is eligible to receive, from the federal government.

(b) An award for the fees of an attorney or agent may not exceed $75.00 per hour, regardless of the actual rate charged by the attorney or agent. An award for the fees of an expert witness may not exceed the highest rate at which the Department pays expert witnesses, which is $24.09 per hour, regardless of the actual rates charged by the witness. These limits apply only to fees; an award may include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges separately for such expenses.

(c) In determining the reasonableness of the fees sought for attorneys, agents or expert witnesses, the adjudicative officer must consider factors bearing on the request, which include, but are not limited to:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for like services; if the attorney, agent or witness is an employee of the applicant, the fully allocated cost of service;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

§ 13.7 Studies, exhibits, analyses, engineering reports, tests and projects.

The reasonable cost (or the reasonable portion of the cost) for any study, exhibit, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded to the extent that:

(a) The charge for the service does not exceed the prevailing rate payable for similar services,

(b) The study or other matter was necessary to the preparation for the administrative proceeding, and

(c) The study or other matter was prepared for use in connection with the administrative proceeding. No award will be made for a study or other matter which was necessary to satisfy statutory or regulatory requirements, or which would ordinarily be conducted as part of the party's business irrespective of the administrative proceeding.

Subpart B—Information Required From Applicants

§ 13.10 Contents of application.

(a) Applications for an award of fees and expenses must include:

(1) The name of the applicant and the identification of the proceeding;

(2) A declaration that the applicant believes it has prevailed, and an identification of the position of the Department that the applicant alleges was not substantially justified at the time of the initiation of the proceeding;

(3) Unless the applicant is an individual, a statement of the number of its employees on the date on which the proceeding was initiated, and a brief description of the type and purpose of its organization or business;

(4) A description of any affiliated individuals or entities, as the term "affiliate" is defined in § 13.4(f), or a statement that none exist;

(5) A statement that the applicant's net worth as of the date on which the proceeding was initiated did not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(i) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualified under such section; or

(ii) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a));

(6) A statement of the amount of fees and expenses for which an award is sought;

(7) A declaration that the applicant has not received, has not applied for, and does not intend to apply for reimbursement of the cost of items listed in the Statement of Fees and Expenses under any other program or statute; or if the applicant has received or applied for or will receive or apply for reimbursement of those expenses under another program or statute, a statement of the amount of reimbursement received or applied for or intended to be applied for; and

(8) Any other matters the applicant wishes the Department to consider in determining whether and in what amount an award should be made.

(b) All applications must be signed by the applicant or by an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(Approved by the Office of Management & Budget under control number 0990-0118)

§ 13.11 Net worth exhibits.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 13.4(f) of this part) when the proceeding was initiated. If any individual, corporation, or other entity directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of the voting shares or other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates or of the applicant including the affiliates. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information

from public disclosure.The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, the officer will omit the material from the public record. In that case, any decision regarding disclosure of the material (whether in response to a request from an agency or person outside the Department or on the Department's own initiative) will be made in accordance with applicable statutes and Department rules and procedures for commercial and financial records which the submitter claims are confidential or privileged. In particular, this regulation is not a basis for a promise or obligation of confidentiality.

(Approved by the Office of Management & Budget under control number 0990–0118)

§ 13.12 Documentation of fees and expenses.

(a) All applicants must be accompanied by full documentation of the fees and expenses, including the cost of any study, exhibit, analysis, report, test or other similar item, for which the applicant seeks reimbursement.

(b) The documentation shall include an affidavit from each attorney, agent, or expert witness representing or appearing in behalf of the party, stating the actual time expended, the rate at which fees and other expenses were computed, a description of the specific services performed, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. Where the adversary adjudication includes covered proceedings (as described in § 13.3) as well as excluded proceedings, or two or more matters, each of which could have been heard separately, the fees and expenses shall be shown separately for each proceeding or matter, and the basis for allocating expenses among the proceedings or matters shall be indicated.

(1) The affidavit shall itemize in detail the services performed by the date, number of hours per date and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide affidavits from two attorneys or agents with similar experience, who perform similar work, stating the hourly rate which they bill and are paid by the majority of their clients during a comparable time period.

(c) If the applicant seeks reimbursement of any expenses not covered by the affidavit described in paragraph (b), the documentation must also include an affidavit describing all such expenses and stating the amounts paid or payable by the applicant or by any other person or entity for the services provided.

(d) The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

(Approved by the Office of Management & Budget under control number 0990–0118)

Subpart C—Procedures for Considering Applications

§ 13.21 Filing and service of pleading.

All pleadings, including applications for an award of fees, answers, comments, and other pleadings related to the applications, shall be filed in the same manner as other pleadings in the proceeding and served on all other parties and participants, except as provided in § 13.11(b) of this part concerning confidential financial information.

§ 13.22 When an application may be filed.

(a) The applicant must file and serve its application no later than 30 calendar days after the Department's final disposition of the proceeding which makes the applicant a prevailing party.

(b) For purposes of this rule, final disposition means the later of (1) the date on which an initial decision or other recommended disposition of the merits of the proceeding by an adjudicative officer or intermediate review board becomes administratively final; (2) issuance of an order disposing of any petitions for reconsideration of the Department's final order in the proceeding; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

(c) For purposes of this rule, an applicant has prevailed when the agency has made a final disposition favorable to the applicant with respect to any matter which could have been heard as a separate proceeding, regardless of whether it was joined with other matters for hearing.

(d) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

§ 13.23 Responsive pleadings.

(a) Within 30 calendar days after service of the application, the agency's litigating party shall file an answer either consenting to the award or explaining in detail any objections to the award requested, and identifying the facts relied on in support of its position. The adjudicative officer may for good cause grant an extension of time for filing an answer.

(b) Within 15 calendar days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 13.25.

(c) Any party to or participant in a proceeding may file comments on an application within 30 calendar days, or on an answer within 15 calendar days after service of the application or answer.

§ 13.24 Settlements.

The applicant and the agency's litigating party may agree on a proposed settlement of the award at any time prior to final action on the application. If the parties agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement. All settlements must be approved by the adjudicative officer and the head of the agency or office or his or her designee before becoming final.

§ 13.25 Further proceedings.

(a) Ordinarily, a decision on an application will be made on the basis of the hearing record and pleadings related to the application. However, at the request of either the applicant or the agency's litigating party, or on his or her

own initiative, the adjudicative officer may order further proceedings, including an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the adjudicative officer order additional written submissions or oral testimony shall identify the information sought and shall explain why the information is necessary to decide the issues.

(c) The adjudicative officer may impose sanctions on any party for failure to comply with his or her order to file pleadings, produce documents, or present witnesses for oral examination. These sanctions may include but are not limited to granting the application partly or completely, dismissing the application, and diminishing the award granted.

§ 13.26 Decisions.

The adjudicative officer shall issue an initial decision on the application as promptly as possible after the filing of the last document or conclusion of the hearing. The decision must include written findings and conclusions on the applicant's eligibility and status as a prevailing party, including a finding on the net worth of the applicant. Where the adjudicative officer has determined under § 13.11(b) that the applicant's net worth information is exempted from disclosure under the Freedom of Information Act, the finding on net worth shall be kept confidential. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, an explanation of any difference between the amount requested and the amount awarded, and whether any special circumstances make the award unjust.

§ 13.27 Agency review.

(a) The head of the agency or office, or his or her designee, shall review any award granted under this part whether or not the parties request such review, and issue a final decision. No award shall be made under this subpart without approval of the head of the agency or office or his or her designee.

(b) If either the applicant or the agency's litigating party seeks review of the adjudicative officer's decision on the fee application, it shall file and serve exceptions within 30 days after issuance of the initial decision. The head of the agency or office or his or her designee shall issue a final decision on the application as soon as possible or remand the application to the adjudicative officer for further proceedings. Any party that does not file and serve exceptions within the stated time limit loses the opportunity to do so.

§ 13.28 Judicial review.

Judicial review of final agency decisions on awards may be obtained as provided in 5 U.S.C. 504(c)(2).

§ 13.29 Payment of award.

The notification to an applicant of a final decision that an award will be made shall contain the name and address of the appropriate Departmental finance office that will pay the award. An applicant seeking payment of an award shall submit to that finance officer a copy of the final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The Department will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceedings.

§ 13.30 Designation of adjudicative officer.

Upon the filing of an application pursuant to § 13.11(a), the officer who presided over the taking of evidence in the proceeding which gave rise to the application will, if available, be automatically designated as the adjudicative officer for the handling of the application.

APPENDIX A

Proceedings covered	Statutory authority	Applicable regulations
Office of the Inspector General		
Proceeding to impose civil monetary penalties or assessments for fraudulent claims under Medicare, Medicaid, and Title V.	42 U.S.C. 1320a-7a	
Health Care Financing Administration		
Proceedings to suspend or revoke licenses of clinical laboratories	42 U.S.C. 263a(e), (g)	
Proceedings provided to a fiscal intermediary before assigning or reassigning Medicare providers to a different fiscal intermediary.	42 U.S.C. 1395h	
Proceedings before the Provider Reimbursement Review Board when HCFA acts as fiscal intermediary	42 U.S.C. 1395oo	42 CFR Part 405, Subpart R
Food and Drug Administration		
Proceedings to withdraw approval of new drug applications	21 U.S.C. 355(d), (e)	21 CFR Part 12, 21 CFR 314.200
Proceedings to withdraw approval of new animal drug applications and medicated feed applications	21 U.S.C. 360b(d), (e), (m)	21 CFR Part 12, 21 CFR Part 514, Subpart B
Proceedings to withdraw approval of medical device premarket approval applications	21 U.S.C. 360e(d), (e), (g)	21 CFR Part 12.
Office of Civil Rights		
Proceedings to enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance.	42 U.S.C. 2000d-1	45 CFR 80.9.
Proceedings to enforce Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap by recipients of Federal financial assistance.	29 U.S.C. 794	45 CFR 84.61.
Proceedings to enforce the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age by recipients of Federal financial assistance.	42 U.S.C 6101, 6104(a)	45 CFR 90.47.
Proceedings to enforce Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in certain education programs by recipients of Federal financial assistance.	20 U.S.C. 1681, 1682	45 CFR 86.71.

[FR Doc. 83-26169 Filed 10-3-83; 8:45 am]
BILLING CODE 4150-04-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Fifty-first Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad and Transition Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., September 30, 1983, and continuing in effect until 11:59 p.m., November 30, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: September 27, 1983.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appndix A, to the previous order , is revised by deleting at Item 4., all authority for the Chicago and North Western Transportation Company (CNW), except their operation at Omaha, Nebraska, now Item 4.A., in this order. Pursuant to Finance Docket No. 29518, the CNW purchased most of the trackage covered in Appendix A of the previous order with the exception of their continuing operation at Omaha. Appendix A is revised further by deleting at Item 19., the authority for the South Central Arkansas Railway, Inc. (SCK), to operate between Dubach and Ruston, Louisiana; and at Item 20., for the Burlington Northern Railroad (BN) to operate betwen Amarillo and Bushland, Texas, as this property has been purchased by BN.

Appendix A is revised in this order, by adding at Item 11., the authority for the La Salle and Bureau County Railroad Company (LSBC) to operate additional trackage between Blue Island and Mokena, Illinois.

Appendix B of Forty-Third Revised Service Order No. 1473 is unchanged and is incorporated into this order by reference.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Car service orders 1473.

(a) Various Railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., September 30, 1983.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*

A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI milepost 581.5 north of Hallam, Nebraska.

3. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. Chicago and North Western Transportation Company (CNW):

*A. At Omaha, Nebraska, 0.1 miles of industrial trackage in the vicinity of 19th and Pierce Streets.

5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. From Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. *Missouri Pacific Railroad Company (MP):*

A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. From Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. From Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7.)

7. *Norfolk and Western Railway Company (NW):* Is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railraod Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

8. *Cadillac and Lake City Railway Company (CLK):*

A. From Limon, Colorado (milepost 530.75) to Caruso, Kansas (milepost 430.0) a distance of 100.75 miles.

B. Overhead rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.

9. *Baltimore and Ohio Railroad Company (BO):*

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

10. *Keota Washington Transportation Company (KWTR):*

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

+B. At Vinton, Iowa (milepost) 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

11. *The La Salle and Bureau County Railroad Company (LSBC):*

A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. From Blue Island, Illinois (milepost 16.61), to Mokena, Illinois (milepost 29.6).

C. From Western Avenue (subdivision 1A, milepost 16.6) to 119th Street (subdivision 1A, milepost 14.8), at Blue Island, Illinois.

D. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

E. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

12. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. At Alva, Oklahoma.

B. At St. Joseph, Missouri.

13. *Iowa Northern Railroad Company (IANR):*

A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. At Vinton, Iowa (milepost 23.4), and west on the Iowa Falls Line to Dysart, Iowa (milepost 40.37).

14. *Iowa Railroad Company (IRRC):*

A. From Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). [This trackage was sold to CNW, however, the RI trustee holds rights for overhead use.]

E. From East Des Moines, Iowa (milepost 350.8.) to Iowa City, Iowa (milepost 237.01), a distance of approximately 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. [This trackage is currently leased to the MILW, see Item 5.B.]

G. From Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35).

H. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. At Rock Island, Illinois including 26th Street Yard.

J. From Altoona to Pella, Iowa.

15. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

16. *Chicago Short Line Railway Company (CSL):*

A. From Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. From Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

17. *Kyle Railroad Company (Kyle):*

A. From Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. From Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. From Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

18. *North Central Oklahoma Railway, Inc. (NCOK)*

A. From Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).

B. From El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

C. From Geary, Oklahoma (milepost 0.0) to Homestead, Oklahoma (milepost 42.8) a distance of approximately 43 miles.

D. From North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8) a distance of approximately 54.5 miles.

19. *South Central Arkansas Railway, Inc. (SCK)*

*A. From El Dorado, Arkansas (milepost 99) to Dubach, Louisiana (milepost 142.3).

20. *Burlington Northern Railroad Company (BN):*

A. At Burlington, Iowa (milepost 0 to milepost 2.06).

B. At North Fort Worth, Texas (milepost 603.0 to milepost 611.4).

21. *Omaha, Lincoln and Beatrice Railway Company (OLB):*

A. At Lincoln, Nebraska (milepost 559.16 to milepost 561.37).

22. *Texas North Western Railway Company (TNW):*

A. From Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.

23. *Colorado and Eastern Railway Company (COE):*

A. From Colorado Springs, Colorado (milepost 602.7) to Limon, Colorado (milepost 530.75) a distance of approximately 72 miles.

24. *Farmrail Corporation (FMRC):*

A. From west of Elk City (milepost 615.0) to west of Erick, Oklahoma (milepost 642.0), a distance of approximately 27 miles.

*Changed.
+Added.

[FR Doc. 83-26964 Filed 10-3-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates trade in certain wild animal and plant species. Appendices I, II, and III to this treaty contain lists of species for which trade is controlled. The nations participating in CITES, including the United States, recently adopted amendments to Appendices I and II. This document incorporates the amendments into the Service's regulations implementing CITES.

DATE: The amendments set forth in this notice entered into effect on July 29, 1983, under the terms of CITES. Therefore, this rule is effective immediately upon publication.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. CITES documents related to the amendments are available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski (202) 653-5948.

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that, although not necessarily threatened with extinction, may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control. Such listings frequently are required because of difficulty in distinguishing specimens of currently or potentially threatened species from other species at ports of entry. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and interested intergovernmental bodies and communicate their responses to all Parties no later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

The Fourth Meeting of the Conference of the Parties to CITES occurred on April 19–30, 1983, in Gaborone, Botswana. At the meeting, the Parties considered proposals to amend the appendices. The proposals that were adopted by the Conference of the Parties were announced in the **Federal Register** (48 FR 30732; July 5, 1983), together with a request for comments from the public on whether the Service should recommend that the United States enter a reservation on any of the amendments. The effect of a reservation would be to exempt this country from implementing CITES for a particular species.

The Service received no comments during the comment period on the notice of July 5, 1983. In the absence of convincing arguments, the Service decided not to recommend that the United States reserve on any of the recent amendments. As stated in the notice of July 5, 1983, the U.S. delegation either voted in favor of the adopted amendments, or in a few cases abstained from voting, but did not vote against any of them.

In addition to adopting amendments to Appendices I and II, the Parties adopted various resolutions for improving the implementation of CITES. One of the resolutions closely linked to the appendices is a recommendation on the regulation of trade in parts and derivatives of plant species listed in Appendix II and III and animal species listed in Appendix III. The Parties recommended that all readily recognizable parts and derivatives of Appendix II and III plants be subject to CITES except for seeds, spores and tissue cultures. Another recommended exception to trade controls concerns the cut flowers of Appendix II orchids (Orchidaceae spp.). The Service is developing plans to implement this recommendation, and will describe them in a forthcoming **Federal Register** notice.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service.

Note.—The Department has determined that the amendments resulting from proposals made by the United States are not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement is not required. The Department also has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). This rule implements changes in the list of species in the CITES appendices that already have been agreed on by the Parties, and to which the United States now is bound according to the terms of CITES. The period of time during which the United States could have entered a reservation on any of these amendments ended on July 29, 1983. Earlier **Federal Register** notices informed the public about these amendments and allowed an opportunity for comment on them. Therefore, the Department has determined that good

cause exists for making this rule effective upon publication (5 U.S.C. 553(d)).

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Dated: September 13, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks

Regulation Promulgation

For reasons set out in the preamble of this notice, Part 23 of Title 50, Code of Federal Regulations, is amended as follows:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 reads as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–43.

§ 23.23 [Amended]

2. Amend paragraph (b) of § 23.23 by adding to the list the following species or other groups of animals and plants in alphabetical order under the appropriate taxonomic categories:

(b) * * *

Species	Common name	Appendix	Date listed (month/day/year)
Class mammalia:	Mammals:		
* * *	* *	*	*
Order Primates:	Primates: Monkeys, Apes, etc:		
* * *	* *	*	*
Lagothrix flavicauda	Yellow-tailed woolly monkey	I	2/4/77
* * *	* *	*	*
Order Cetacea:	Whales, Porpoises, Dolphins		
* * *	* *	*	*
Balaenoptera acutorostrata (all populations except that of West Greenland: entry into force as App. I on 1/1/86).	Minke Whale	I	6/28/79
* * *	* *	*	*
Balaenoptera edeni	Brydes whale	I	6/28/79
* * *	* *	*	*
Berardius spp	Beaked whales	I	6/28/79
* * *	* *	*	*
Caperia marginata (entry into force as App. I on 1/1/86.	Pygmy right whale	I	6/28/79
* * *	* *	*	*
Hyperoodon spp	Bottle-nosed whales	I	6/28/79
* * *	* *	*	*
Order Carnivora:	Carnivores: Cats, Bears, etc:		
* * *	* *	*	*
Ursus arctos (European population, USSR excepted).	Brown Bear	II	7/29/83
* * *	* *	*	*
Order Perissodactyla *Equus africanus*	African wild ass	I	7/29/83
* * *	* *	*	*
"Order Artiodactyla"			
Cephalophus dorsalis	Bay duiker	II	7/29/83
* * *	* *	*	*
Cephalopus jentinki	Jentink's duiker	II	7/29/83
* * *	* *	*	*
Cephalophus ogilbyi	Ogilby's duiker	II	7/29/83
* * *	* *	*	*
Cephalophus sylvicultor	Yellow-backed duiker	II	7/29/83
* * *	* *	*	*
Cephalophus zebra	Zebra-banded duiker	II	7/29/83
* * *	* *	*	*
Gazella dama	Dama gazelle	I	7/29/83
* * *	* *	*	*
Moschus spp. (populations of Afghanistan, Bhutan, Burma, India, Nepal and Pakistan).	Musk deer	I	7/1/75
* * *	* *	*	*
CLASS AVES:	BIRDS:		
Order Struthioniformes:	Ostriches:		
Struthio camelus (populations of Algeria, Central African Republic, Chad, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, Sudan, Cameroon, and Upper Volta).	Ostrich	I	7/29/83
* * *	* *	*	*
Order Ciconiiformes:	Herons, Storks, Ibises, Flamingos:		
* * *	* *	*	*
Phoenicopteridae spp. (all species except those with earlier date in App. II).	Flamingos	II	7/29/83
* * *	* *	*	*
Order Anseriformes:	Ducks, Geese, Swans, Screamers:		
* * *	* *	*	*
Oxyura leucocephala	White-headed duck	II	7/29/83
* * *	* *	*	*
Order Gruiformes:	Cranes, Rails Bustards:		
Anthropoides virgo	Demoiselle crane	II	7/29/83

Species	Common name	Appendix	Date listed (month/day/year)
* * *	* *	*	*
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
* * *	* *	*	*
Ara glaucogularis	Caninde macaw	I	6/6/81
* * *	* *	*	*
Ara rubrogenys	Red-fronted macaw	I	6/6/81
* * *	* *	*	*
Ognorhynchus icterotis	Yellow-cheeked conure	I	6/6/81
* * *	* *	*	*
CLASS REPTILIA:	REPTILES:		
Order Crocodylia:	Crocodiles, Alligators, Caimans, Gavials:		
* * *	* *	*	*
Crocodylus niloticus (population of Zimbabwe resulting from ranching).	Nile Crocodile	II	7/1/75
* * *	* *	*	*
Order Squamata:	Snakes, Lizards:		
* * *	* *	*	*
Epicrates monensis	Mona boa	I	2/4/77
* * *	* *	*	*
PHYLUM MOLLUSCA:	MOLLUSCS:		
Class Pelecypoda (=Bivalvia):	Clams, Mussels:		
* * *	* *	*	*
Tridacna derasa	Giant clam	II	7/29/83
Tridacna gigas	Giant clam	II	7/29/83
* * *	* *	*	*
PLANT KINGDOM:	PLANTS:		
Family Agavaceae:	Agaves:		
Agave arizonica	New river agave	I	7/29/83
Agave parviflora	Santa Cruz striped agave	I	7/29/83
Agave victoriae-reginae	Queen Victoria agave	II	7/29/83
Nolina interrata	Dehesa beargrass	I	7/29/83
* * *	* *	*	*
Family Cactaceae:	Cacti:		
* * *	* *	*	*
Ancistrocactus tobuschii	Tobusch's fishhook cactus	I	7/1/75
* * *	* *	*	*
Ariocarpus Trigonus	Chaute	I	7/1/75
* * *	* *	*	*
Backebergia militaris	Teddy-bear cactus, military cap	I	7/1/75
Coryphantha minima	Nellie's cory cactus	I	7/1/75
Coryphantha sneedii	Pincushion cactus	I	7/1/75
Corphantha werdermannii	Jabali pincushion cactus	I	7/1/75
* * *	* *	*	*
Leuchtenbergia principis	Agave cactus, prism cactus	I	7/1/75
Lobeira macdougallii	MacDougall's cactus, prism cactus	I	7/1/75
Mammillaria pectinifera (=*Solisia pectinata*).	Conchilinque	I	7/1/75
Mammillaria plumosa	Feather cactus	I	7/1/75
Mammillaria solisioides	Pitayita	I	7/1/75
Neolloydia erectocentra		I	7/1/75
Neolloydia mariposensis	Mariposa cactus	I	7/1/75
* * *	* *	*	*
Pediocactus bradyi	Brady's pincushion cactus	I	7/1/75
Pediocactus despainii	San Rafael Swell cactus	I	7/1/75
Pediocactus knowltonii	Knowlton's cactus	I	7/1/75
Pediocactus papyracanthus	Grama grass cactus	I	7/1/75
Pediocactus paradinei	Houserock Valley cactus	I	7/1/75
Pediocactus peeblesianus	Peebie's Navajo cactus	I	7/1/75
Pediocactus sileri	Siler's pincushion cactus	I	7/1/75
Pediocactus winkleri	Winkler's cactus	I	7/1/75
* * *	* *	*	*
Sclerocactus glaucus	Uinta Basin hookless cactus	I	7/1/75
Sclerocactus mesae-verdae	Mesa Verde cactus	I	7/1/75
Sclerocactus pubispinus	Great Basin fishhook cactus	I	7/1/75
Sclerocactus wrightiae	Wright's fishhook cactus	I	7/1/75
Strombocactus disciformis	Disc cactus, top cactus	I	7/1/75
Turbinicarpus spp.	Turbinicarpus	I	7/1/75
Wilcoxia schmollii	Lamb's-tail cactus	I	7/1/75
* * *	* *	*	*
Family Crassulaceae:			
Dudleya stolonifera	Laguna Beach dudleya	I	7/29/83
Dudleya traskiae	Santa Barbara Island dudleya	I	7/29/83
Family Cupressaceae:	Cypresses:		
* * *	* *	*	*
Fitzroya cupressoides (coastal population of Chile).	Fitzroya, Alerce	II	7/1/75
* * *	* *	*	*
Family Diapensiaceae:			
Shortia galacifolia	Oconee bells	II	7/29/83
* * *	* *	*	*
Family Ericaceae:			
Kalmia cuneata	White wicky	II	7/29/83
* * *	* *	*	*
Family Fouquieriaceae:			
Fouquieria columnaris	Boojum tree	II	7/29/83
Fouquieria faciculata	Abrol de Barril	I	7/29/83
Fouquieria purpusii	n.c.n.	I	7/29/83
* * *	* *	*	*
Family Portulacaceae:	Portulacas:		
Lewisia cotyledon	Siskiyou lewisia	II	7/29/83
Lewisia maguirei	Maguire's lewisia	II	7/29/83
Lewisia serrata	Saw-toothed lewisia	II	7/29/83

Species	Common name	Appendix	Date listed (month/day/year)
Lewisia tweedyi	Tweedy's lewisia	II	7/29/83

3. Amend Paragraph (b) of § 23.23 by revising the existing entries for particular species on the list to read as follows:

(b) * * *

Species	Common name	Appendix	Date listed (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
* * *	* *	*	*
Order Carnivora:	Carnivores:		
* * *	* *	*	*
Ursus arctos (Italian population)	European brown bear	II	7/1/75
* * *	* *	*	*
Order Artiodactyla:	Even-toed Ungulates:		
Addax nasomaculatus	Addax	I	7/1/75
Ammotragus lervia	Barbary sheep, Aoudad	II	4/22/76
* * *	* *	*	*
Oryx dammah	Scimitar-horned oryx	I	7/1/75
* * *	* *	*	*
Ovis canadensis (Mexican population)	Bighorn sheep	II	7/1/75
* * *	* *	*	*
CLASS AVES:	BIRDS:		
* * *	* *	*	*
Order Pelecaniformes:	Pelicans:		
Pelecanus crispus	Dalmatian pelican	I	7/1/75
* * *	* *	*	*
Order Charadriiformes:	Shorebirds, Gulls, Auks:		
Numenius tenuirostris	Slender-billed curlew	I	7/1/75
* * *	* *	*	*
CLASS OSTEICHTHYES:	BONY FISHES:		
Order Acipenseriformes:	Sturgeons:		
* * *	* *	*	*
Acipenser sturio	Baltic sturgeon	I	7/1/75

4. Amend paragraph (b) of § 23.23 by removing the existing entries for particular species on the list as follows:

(b) * * *

Species	Common name	Appendix	Date listed (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
* * *	* *	*	*
Order Carnivora:	Carnivores:		
* * *	* *	*	*
Vulpes velox hebes	Swift fox	I	7/1/75
* * *	* *	*	*
Order Artiodactyla:	Even-toed ungulates:		
* * *	* *	*	*
Moschus moschiferus (Himalayan population)	Musk deer	I	7/1/75
* * *	* *	*	*
CLASS AVES:	BIRDS:		
* * *	* *	*	*
Order Anseriformes:	Ducks, Geese, Swans, Screamers:		
* * *	* *	*	*
Anser albifrons gambelli	Tule goose	II	7/1/75
* * *	* *	*	*
CLASS OSTEICHTHYES:	BONY FISHES:		
Order Acipenseriformes:	Sturgeons:		
* * *	* *	*	*
Acipenser fulvescens	Lake sturgeon	II	7/1/75
* * *	* *	*	*
Order Salmoniformes:	Salmon, Trout:		
Coregonus alpenae	Longjaw cisco	I	7/1/75
* * *	* *	*	*
Order Perciformes:	Perch-like fishes:		
* * *	* *	*	*
Stizostedion vitreum glaucum	Blue pike	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
* * *	* * *	*	*
PLANT KINGDOM:	PLANTS:		
* * *	* * *	*	*
Family Chloanthaceae: Populations of all species in Australia	Lambs tails		
* * *	* * *	*	*
		II 7/1/75	
Family Myrtaceae:	Myrtles:		
Verticordia spp.	Feather flowers	II	6/28/79
* * *	* * *	*	*
Family Pinaceae:	Pines, Firs:		
Abies nebrodensis	Tronco nudo	I	7/1/75
* * *	* * *	*	*
Family Rutaceae:	Boronias, Rues:		
Boronia spp.	Boronia	II	6/28/79
* * *	* * *	*	*
Family Saxifragaceae (Grossulariaceae):	Saxifrages, Currents, Gooseberries:		
Ribes sardoum		I	7/1/75
Family Solanaceae:	Nightshades		
Solanum sylvestre		II	7/1/75
* * *	* * *	*	*
Family Ulmaceae:	Elms:		
Celtis aetherasis		I	7/1/75

[FR Doc. 83-26652 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 30909-187]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Final rule.

SUMMARY: NOAA issues final regulations for the 1983 amendment to the fishery management plan (FMP) for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California. Specific management measures in these regulations vary by fishery and area, but generally establish fishing seasons, quotas, necessary inseason management modifications, daily catch limits for recreational fisheries, and minimum size limits for salmon. The intended effect of these regulations is to prevent overfishing, to apportion equitably the ocean harvest between the commercial and recreational fisheries, to allow more salmon to survive the ocean fisheries and reach the various inside fisheries, to meet the U.S. obligations to treaty Indian fisheries, and to achieve the 1983 salmon spawning escapement goals.

EFFECTIVE DATE: 0001 hours Pacific Standard Time, October 31, 1983.

ADDRESS: Copies of the 1983 amendment, and accompanying report which includes the regulatory impact review/regulatory flexibility analysis and the final environmental impact statement, are available from the Pacific Fishery Management Council, 526 SW. Mill Street, Portland, Oregon 97201.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Bin C-15700, Seattle, Washington 98115, telephone (206) 527-6150.

SUPPLEMENTARY INFORMATION:

Background

The fishery management plan (FMP) for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California, prepared by the Pacific Fishery Management Council (Council), was approved by the NOAA Assistant Administrator for Fisheries (Assistant Administrator), on March 2, 1978. Regulations to implement the FMP were first published on April 14, 1978 (43 FR 15629). The FMP was amended in 1979, 1980, 1981, and 1982 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.* The amended FMP specifies management measures that vary by fishery and area; in general, it establishes fishing seasons, provides seasonal harvest quotas and other inseason management measures, sets minimum fish sizes, and establishes daily catch limits for the recreational fisheries.

On May 5, 1983, the Assistant Administrator filed emergency regulations to manage the 1983 ocean salmon fisheries under Section 305(e)(2) of the Magnuson Act, which authorizes the Secretary of Commerce to promulgate emergency regulations to address a fishery emergency. The emergency interim rule was effective on May 23, 1983, for ninety days (48 FR 21135) and was extended (48 FR 36823) for a second ninety-day period effective August 21, 1983. A notice of availability of the 1983 Amendment, and request for public comment, were published on June 9, 1983 (48 FR 26653). Proposed regulations to implement the 1983 Amendment, identical to the emergency interim rule, were published in the **Federal Register** on July 11, 1983 (48 FR 31677). The Assistant Administrator has reviewed the 1983 amendment and proposed regulations in light of comments submitted during the public comment periods. He has determined that the amended FMP is consistent with the Magnuson Act and other applicable law. He now adopts as final those regulations issued as a proposed rule at 48 FR 31677, without republishing them to save public expense and reduce the volume of printed matter. This final rule supersedes the emergency interim rule.

Comments

In the preamble of the emergency interim rule there was a discussion of the current status of the coastwide salmon stocks and a presentation of the Council's rationale for selecting this year's fishing regulations. The preamble of the proposed rule contained a presentation of comments that were received by the Council and the Secretary regarding the emergency interim rule.

Comments on the proposed regulations were received from 4 sources and are discussed below:

1. U.S. Department of the Interior (DOI):

a. The escapement goals for the Upper Sacramento and Klamath Rivers, as stated in the FMP prior to the 1983 amendment, are appropriate and should be retained. Since the 1983 amendment states the Klamath River goals as in-river run size rather than spawning escapement, that goal should be increased to account for in-river harvests, in addition to the 115,000 fish spawning goal.

b. Quotas for the California ocean chinook troll fisheries should be 385,000 fish south of Cape Vizcaino, California, and 150,000 fish between Cape Vizcaino and Cape Blanco, Oregon.

c. The commercial troll season south of Cape Vizcaino, California, opened on April 22 rather than May 1 as provided in the 1983 regulations. An adjustment should be made during the 1983 season to account for the additional nine fishing

days not included in the 1983 regulations.

d. The special pink and sockeye fishery north of Carroll Island, Washington (August 7–20, 1983) deserves close attention, and emergency measures should be implemented to protect depleted pink salmon stocks in Puget Sound if warranted.

e. The experimental chinook-only troll fishery off the Oregon coast south of Cape Falcon (June 1–15) will occur during times and in areas of significant "shaker" problems and high coho abundance. This fishery also should be monitored closely and, if necessary, emergency closure action should be taken to prevent damage to these resources.

2. Warm Springs Tribe:

a. Chinook quotas, instead of harvest ceilings, were included in the 1983 emergency regulations for commercial fisheries north of Cape Falcon. The Tribal representatives felt that there is an important distinction between the two concepts in that quota management is not generally tied to a particular time frame and fishing is expected to continue until the quota is met. A harvest ceiling, on the other hand, is not a guaranteed catch or allocation but is tied to a particular fishing period and has as its limit either the harvest ceiling or the end of the fishing period. The Tribal representatives believe that management by harvest ceilings is more conservative than quota management and is the appropriate tool, in combination with time-area closures, to manage the 1983 chinook fisheries north of Cape Falcon.

b. The Warm Springs Tribe is opposed to any transfer of chinook not caught in the May and July troll fisheries to the special zone 1, August, troll fishery because such a transfer was not anticipated by the Salmon Plan Development Team and there is no scientific analysis of the effects of enlarging the 19,000 chinook harvest ceiling for special fishery zone 1, and it can be expected that the entire Oregon and Washington salmon troll fleet will concentrate in the small area between Cape Falcon and the south jetty during the August–September fishery.

3. A sport fisherman from Camas, Washington, objected to not being allowed to fish from the north jetty at the Columbia River mouth. He believes this regulation unfairly discriminated against people who do not own a seagoing boat and who like the challenge of fishing from the rocks.

4. A small-boat troller from Washington had a number of comments. The ocean troll fishing regulations were too restrictive and the short fishing seasons gave the owners and operators of large, mobile, troll boats an unfair advantage over the small "dayboat" trollers. Separate allocations or longer seasons should be given the smaller boats so they can catch a larger share of the salmon. Trollers are being restricted so that the inside gillnet fishery can be increased. Also, surplus returns of salmon to State and Federal hatcheries places the hatcheries in direct competition with salmon trollers when the hatcheries offer the surplus fish for sale to the public. The 1983 ocean management boundaries were difficult to identify for small boats which lack radar. Future management boundaries also should indicate depths at which the boundaries occur, i.e., six miles offshore or at thirty fathoms depth.

Responses

1a. The 1983 amendment retains the long-term spawning escapement goals for the Upper Sacramento River at 99,000 natural and 9,000 hatchery chinook and for the Klamath River at 97,000 natural and 17,500 hatchery chinook. The schedule for reaching those goals are altered by this amendment. The plan now establishes intermediate annual goals which are expressed in terms of spawning escapement for the Sacramento and in-river run sizes for the Klamath. Since the in-river harvest will vary in the Klamath and is beyond the control of ocean fishery managers, the specification of intermediate goals as escapement from the ocean is appropriate. On the Klamath, the long-term spawning goal is scheduled to be achieved by 1995.

b. The Council believes that chinook fisheries are difficult to manage by harvest quotas because chinook stock abundance cannot be predicted accurately. Quotas to manage California chinook fisheries were included in the 1980 and 1981 FMP amendments as well as in this year's amendment. The Council has proposed chinook quotas for 1983 in the waters off Washington and northern Oregon to prevent a shift of effort to chinook fishing from coho fishing which has a low quota in 1983. The northern chinook quotas were based on historical catches and were not based on preseason predictions of chinook abundance.

The Secretary concurred with the Council that quotas were not the best means of managing the chinook fisheries off California in 1983. Catch and effort in these areas is less than anticipated and considerably below catch levels of recent years. It is unlikely that the troll catches south of Cape Vizcaino will exceed the 385,000 quota recommended by DOI. If the chinook catch from the special fishery at the mouth of the Rogue River off Oregon is excluded, it also is unlikely that the 150,000 quota recommended by DOI for the area north of Cape Vizcaino to Cape Blanco will be met.

c. The Council's Salmon Plan Development Team recognized that the 1983 regulations would not likely be effective in time to prevent the season opening on April 22 south of Cape Vizcaino. In its March 24, 1983, "Analysis of Impacts of the 1983 Regulation," the Team anticipated an April 22 opening in evaluating the impacts of the proposed seasons. Therefore, adjustments later in the 1983 season were not necessary. The 1983 regulations provide for a May 1 opening for the troll fishery south of Cape Vizcaino and will remain in effect until superseded.

d. The August fishery on pink and sockeye salmon north of Caroll Island was closely monitored. Observers were on board some of the participating vessels. The number of vessels and the catch per vessel were lower than anticipated.

e. The experimental chinook-only troll fishery, conducted during June, off the Oregon coast south of Cape Falcon was closely monitored. Coho abundance was not great in the area and there were less undersized chinook present than during the May fishery.

2a. There is little if any distinction between the expression "harvest ceiling" and "quota." Both the Council and the Department of Commerce share this view. The 1983 plan amendment indicates that the terms are interchangeable.

Both measures accomplish the same thing which is to limit the number of fish of a particular species to be harvested. Whichever is used, a minimum time period also is applied, after which fishing ceases for that species whether or not the quantity of fish involved has been taken. Neither expression conveys a guarantee that a certain number of fish will be harvested, except that the low quotas or harvest ceiling established in recent years because of depressed salmon stock conditions are virtually certain to be taken in the allotted time. This may not be true of the harvest ceiling chinook-only trollers north of Cape Falcon this year because of poor weather, gear restrictions applied in July, and the reduced availability of salmon.

b. Both the Council and the Salmon Plan Development Team considered the entire chinook troll quota to be a single quota of 114,000 fish for the entire 1983 fishery. This is confirmed by the Team's

analysis shown on pages 6–14 of the proposed 1983 amendment to the ocean salmon plan. The Team noted that the total harvest ceiling north of Cape Falcon, both troll and recreational, would "* * * maintain: (1) acceptable levels of incidental impacts on depressed natural stocks; and (2) the recent balance of ocean and in-river harvest of Columbia River hatchery fall chinook." The Team anticipated that the entire 202,000 chinook harvest ceiling, troll and recreational, would be taken.

The all-species season in August was limited to the area south of the Columbia River and north of Cape Falcon to minimize the interception of chinook salmon returning to the Columbia River from the north and to maximize the harvest of coho salmon returning from the south to Columbia River hatcheries. The number of vessels in the area during August and September is not an issue since the catch is limited by a quota.

3. Federal regulations do not apply to the area inside of three miles from shore. The reason for this state closure is to protect depressed runs of upper Columbia River chinook.

4. Regulations for the ocean troll fishery north of Cape Falcon were more restrictive in 1983 to protect the weak Washington coastal cohol salmon runs. The intent of the amendment and the regulations was to maximize the ocean catch while protecting the weak stocks so that the spawning escapement goals and the inside treaty Indian obligations could be met. A number of "season extenders" were provided for the trollers north of Cape Falcon, such as the chinook fishery in July on special gear, the special pink and sockeye fishery north of Carroll Island in August, and the all-species season in August south of the Columbia River to Cape Falcon to allow the trollers the opportunity to harvest surplus hatchery fish. The commercial troll quotas were not split between large and small vessels because of the additional administrative and enforcement problems that would be associated with such a system.

Efforts were made to treat all user groups for ocean and internal water fisheries equitably given the 1983 condition of the salmon runs. Because the ocean fishery is on mixed stocks, both natural and hatchery, it is sometimes difficult to establish regulations that adequately protect the weakest stocks while allowing full harvest of the stronger hatchery stocks.

With regard to the demarcation of ocean management boundaries, depth contours vary with location and it is not feasible to designate a management boundary by both distance and depth. Designating areas only by depth makes enforcement from the air difficult.

Classification

The 1983 FMP Amendment is necessary for the conservation and management of the ocean salmon fishery and that is consistent with the Magnuson Act and other applicable law.

The Council prepared a final supplemental environmental impact statement for this amendment; a notice of availability was published on August 24, 1983 (48 FR 37702).

The NOAA Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. A regulatory impact review (RIR) was prepared by the Council and integrated into the amendment. The RIR supports the determination that this rule is not "major" under the E.O. 12291 criteria.

The Council also prepared a final regulatory flexibility analysis (RFA) which describes the effects this rule will have on small entities. The RFA is integrated into the amendment, and copies may be obtained from the Council at the address listed above.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

This rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies agreed with this determination, or failed to comment within the statutory time period.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: September 23, 1983.

Carmen J. Blondin,

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

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

For the reasons set forth in the preamble, 50 CFR Part 661 is amended by making final the interim emergency rule published on Monday, May 11, 1983, at 48 FR 21135.

[FR Doc. 83-26966 Filed 9-29-83; 9:28 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 193
Tuesday, October 4, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Improvements in the Administration of the Government in the Sunshine Act

Correction

In FR Doc. 83-26253 beginning on page 44082 in the issue for Tuesday, September 27, 1983, the proposed recommendation on improvements in the administration of the Government in the Sunshine Act consisted of two separate portions A. and B. The heading "Recommendation" was inadvertently omitted above the recommendation in portion B (third column of page 44082). The heading is reinstated and the text of the recommendation is reprinted as follows:

Recommendation

The Government in the Sunshine Act should be amended to allow agencies to consider in closed meetings subject matter concerning budget formulation and execution, legislative programs and positions, and prospective rulemaking initiatives.

BILLING CODE 1505-01-M

1 CFR Part 305

Agency Structures for Review of Decisions of Presiding Officers Under the Administrative Procedure Act

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Administrative Conference's Committee on Adjudication has under consideration a proposed recommendation respecting agency organizational structures for review of decisions of presiding officers under the Administrative Procedure Act. Interested persons are invited to comment on the proposed recommendation.

DATE: Comment Deadline: October 28, 1983.

ADDRESS: Send comments to: Administrative Conference of the United States, 2120 L Street, NW, Suite 500, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, General Counsel, 202-254-7020.

SUPPLEMENTARY INFORMATION: The Administrative Conference has received a report from its consultant, Professor Ronald A. Cass of the Boston University School of Law, on agency review of administrative law judge's decisions. The report attempts a comparative evaluation of the various review structures employed by agencies in reviewing decisions of ALJ's and other presiding officers in cases determined on the record after hearing, *e.g.*, *certiorari*-type review vs. review of right, use of judicial officers, employee review boards, etc. The report is based on examination of the data compiled through the Conference's Uniform Caseload Accounting System, as supplemented by study of agency regulations and other materials, as well as by interviews.

The report concludes that it is impossible to propose a single ideal review structure, but that one can formulate guidelines to help agencies and Congress in making the best choices. The proposed recommendation sets forth such guidelines.

The Committee on Adjudication invites comments on the proposed recommendation and requests that they be submitted no later than Friday, October 28, 1983. Comments should be sent to Richard K. Berg at the address given above. The Committee will meet in early November to consider the recommendations in the light of the comments received. Comments received after October 28 will be considered to the extent that the Committee's schedule permits.

Single copies of the report will be furnished on request.

Proposed Recommendation: Agency Structures for Review of Decisions of Presiding Officers Under the Administrative Procedure Act

This recommendation is addressed to the organizational structures which agencies establish to review decisions by presiding officers (ordinarily, administrative law judges) in proceedings governed by sections 556 and 557 of the Administrative Procedure Act or otherwise involving agency determinations on the record after opportunity for a hearing. It is based on a study of structures now in use and their relationship to the accuracy, efficiency and acceptability of the adjudicatory process.

The study concludes that variations in the characteristics and numbers of adjudicatory proceedings in different agencies and in the organization and functions of such agencies caution against recommending any single structure for review of adjudicatory decisions by presiding officers. By and large the present review structures in the agencies studied seem well adapted to the particular circumstances of the agency. Consequently, the purpose of this recommendation is not to effect any drastic change in present structures, but to provide general guidance to agencies which are establishing new review structures or revising present ones.

In selecting among possible structures for review of adjudicatory decisions four basic precepts should be kept in mind. The first two involve considerations of efficiency; the others involve considerations of accuracy and acceptability.

First, efficiency is generally served by spreading the review load over a number of reviewers adequate to keep review time low relative to initial decision time. Application of this precept requires attention to three variables: the total relevant adjudicatory caseload, the difficulty of the cases, and the number of reviewers. Second, efficiency also is served by minimizing repetition; the same matter seldom should be put in issue more than once. This cautions against *de novo* review, instead favoring more limited review of issues properly committed to a subordinate.

Third, accuracy depends on matching the skills of the reviewer to the issues presented. Officials integrated into the agency's policymaking apparatus should review decisions that significantly involve policy issues while officials trained in factfinding should review decisions presenting fact issues. Furthermore, the level of the reviewer should match the magnitude of the issue. Agency heads with numerous other responsibilities should be insulated from routine cases, but attempts to force

resolution of major policy issues at lower levels seem misguided except when those issues can readily be addressed by rulemaking. Similarly, individual reviewers easily can address relatively simple issues, whether of fact or of policy, while more complex questions may call for consideration by a group.

Fourth, acceptability generally requires that *some* review by a higher agency authority be available at the instance of the aggrieved party, at least in cases of great impact on individual parties. Imposition of a substantial penalty and removal of a valuable government benefit are obvious candidates for review as of right.

These precepts jointly support two additional observations relevant to agency head review. The first concerns the type of agency involved. Single-headed agencies differ from collegial bodies in two important respects. The single agency head has less time than does a group of agency members. Review by the head of a single-headed agency is more burdensome than review functions spread over a group. The second difference is that, other things being equal, in single-headed agencies policy can be articulated more readily in a form which provides effective guidance to subordinate reviewing officials, since disagreements among agency members demand some method of accommodation and frequently require a compromise solution that is less coherent than any individual's views. This relative disadvantage for multi-member agencies makes delegation of review more difficult. On both efficiency and accuracy grounds, therefore, agency head review should be needed less often in agencies headed by a single official. A second derivation from these precepts is that the number and relative significance of the non-adjudicatory functions performed by an agency is important to assessing the burden imposed by review. The fewer the agency's non-adjudicatory functions, the less the burden on the agency head in reviewing cases, and the greater the justification for his devoting his attention to reviewing cases as a means of guiding adjudicatory policy.

Recommendation

1. Agency Head Review

a. In drafting legislation governing the institutional structure for agency adjudicatory proceedings, Congress should favor delegation of decisional authority and should not prescribe detailed review structures. The presumption should be that each agency head is best able to allocate review functions within the agency.

b. Congress should authorize agency heads [1]

(i) To review initial decisions of presiding officers in adjudicatory matters on a discretionary basis, as described in Administrative Conference Recommendation 68-6, section 2(b); and

(ii) To delegate review authority on an *ad hoc* basis or with respect to any or all classes of decisions to a subordinate official or board of officials with or without the possibility for further review by the agency head in his discretion.

Where the agency head retains the right of discretionary review of an initial or intermediate decision, the agency should provide by regulation the grounds and procedures for invoking such review, in accordance with the guidelines set forth in section 2(b) of this Recommendation.

c. Congress should require agency heads to review personally decisions only in the rarest circumstances. These are:

(i) In the case of an agency headed by an individual, the subject matter at issue is of such importance that attention at the very highest level is imperative; or

(ii) In the case of an agency headed by a collegial body, the subject matter at issue is of special importance, the cases comprising the relevant class of decisions are few in number, and the agency either has no other significant non-adjudicatory functions or has few such functions and has a sufficient number of members adequately to perform review and other tasks. This paragraph does not address requirements for discretionary review procedure under which a case may be brought before the agency for review on the vote of one or more members of the agency.

Nothing in this section is intended to deal with the appropriate allocation of responsibilities between the agency head and his subordinates in connection with the decisions in cases which he personally reviews.

2. Forms of Delegations

a. *General.* Agency heads having powers of delegation should delegate review authority on a class, rather than case-by-case, basis whenever a substantial number of cases is adjudicated at the agency. Delegations on an *ad hoc* basis should be limited to situations where adjudicatory proceedings are relatively few and of various kinds, so that selection of a single qualified reviewing authority is difficult.

b. *Reservation of Authority.* Where an agency head delegates review authority, any authority he retains to grant further review should be exercisable only in his discretion on a showing that important policy issues are presented or that the delegate erroneously interpreted agency policy. Multilevel review of purely factual issues should be avoided.

3. *Choice of Delegate.* When an agency head determines to make a standing delegation of his review authority, either unconditionally or subject to further discretionary review, he may choose between delegating to a subordinate authorized to act individually, *e.g.*, a judicial officer, or to an employee board authorized to act collegially. A multi-member agency might also delegate to one of its members or a panel made up of its members. This section sets forth some factors which may guide an agency head in his choice among these forms. The list is not intended to be exclusive, nor to suggest that in every case there are clear grounds for preferring one form to another.

a. *Individual Delegates.* Where a standing delegation of review authority is to be adopted, the following factors favor a delegation to an individual delegate (or to a number of delegates authorized to review decisions individually) rather than to several delegates acting jointly: the number of cases is large, the cases are relatively simple, and the predominant issues concern descriptive facts, or, to the extent complex issues are presented, their resolution generally depends on application of a single skill or discipline, such as legal interpretation, or application of knowledge uniquely associated with the medical or engineering professions or with a discrete branch of science) rather than on some combination of skills or disciplines.

b. *Review Boards.* In deciding whether a delegation instead should be made to a group of persons jointly charged with review of ALJ decisions, among the factors that should be considered as favoring such delegations are: The caseload is substantial (but somewhat less than that contemplated by paragraph (a) above), more complex cases that consume a significant amount of time at the initial decision stage, and cases presenting a class of issues dependent for resolution on the application of several different skills or disciplines.

[1] "Agency head" is used in the functional sense of the individual or body politically responsible for the administration of the program in question whether this responsibility is vested by statute or by delegation from a superior official, such as the Secretary of a department.

c. *Agency Panels.* In some circumstances, a multi-member agency may find it desirable to make a standing delegation of review authority to a panel of agency members. Factors favoring such delegation include a large adjudicatory caseload and difficulty in elaborating or clarifying agency policy (especially through formal mechanisms such as rulemaking) in a manner that will substantially limit the number or significance of policy issues presented in adjudications.

4. Standards for Grant of Review

a. *Review of Right; Discretionary Review.* Delegation of review authority does not necessarily imply that such review must be available as of right. While review of right is appropriate in certain cases because of the severe consequences to the parties, such as cases involving the imposition of a substantial penalty or the revocation of a license, agency heads should consider the desirability in routine cases of authorizing the review authority to decline review in the absence of a reasonable showing that:

(i) A prejudicial procedural error was committed in the conduct of the proceeding, or

(ii) The initial decision embodies: (i) A finding or conclusion of material fact which is erroneous or clearly erroneous, as the agency may be rule provide; (ii) a legal conclusion which is erroneous; or (iii) an exercise of discretion or decision of law or policy which is important and which should be reviewed.

b. *Review Sua Sponte.* Availability of review at the instance of the reviewing authority is desirable where that authority is the agency head or an agency panel. Sua sponte review should not ordinarily be available at the instance of a delegate of review authority.

List of Subjects in 1 CFR Part 305

Administrative practice and procedure.

(5 U.S.C. 574)

Dated: September 29, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83-27018 Filed 10-3-83; 8:45 am]

BILLING CODE 6110-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Central Office Education and Training Review Panel

AGENCY: Veterans Administration.

ACTION: Proposed Regulation.

SUMMARY: The Central Office Education and Training Review Panel reviews decisions made by the Committees on Educational Allowances located in the various VA (Veterans Administration) field stations. The VA has determined that the current panel is not a properly constituted Federal Advisory Committee as provided by the Federal Advisory Committee Act. This proposal overcomes this shortcoming by reconstituting the panel so that it no longer is an advisory committee within the meaning of the Act.

DATES: Comments must be received on or before November 1, 1983. It is proposed to make this regulation effective the date of final approval.

ADDRESSES: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until November 10, 1983. Anyone visiting VA Central Office in Washington, D.C. for the purpose of inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20240 (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4208, Title 38, Code of Federal Regulations is amended to show that the Central Office Education and Training Review Panel will be composed of VA employees.

The VA has determined that this proposed regulation is not a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that this proposed regulation, if made final, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the VA does not expect the number of small entities affected by this proposal to be substantial. Since 1978 the number of cases reviewed by the Central Office Education and Training Review Panel has averaged a little over two per year. Not all of these cases involved schools that would qualify as small entities under RFA. The VA does not believe that changing the composition of the panel will increase the number of cases referred to it. Consequently, the proposal will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this proposed regulation is 64.111.

List of Subjects in 38 CFR Part 21

Civil Rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

Approved: September 19, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

The Veterans Administration proposes to amend 38 CFR Part 21 as set forth below:

In § 21.4208, paragraph (b) is revised as follows:

§ 21.4208 Central Office Education and Training Review Panel.

* * * * *

(b) *Composition of Panel.* (1) The Director, Education Service shall appoint from among the employees of the Veterans Administration.

(i) A chairperson of the panel, and

(ii) Five persons to serve as members of the panel.

(2) Each time a school seeks a review of a decision under the provisions of § 21.4207(d), the chairperson shall choose two persons from the five appointed under subparagraph (1) of this paragraph. The chairperson and these

two persons shall carry out the functions of the panel as stated in paragraph (a) of this section. (38 U.S.C. 1790)

* * * * *

[FR Doc. 83-26981 Filed 10-3-83; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Post Office Closing and Consolidation Procedures

AGENCY: Postal Service.

ACTION: Extension of time to comment on proposed post office closing and consolidation procedures.

SUMMARY: This document extends the time to submit comments on the Postal Service's proposal to revise its procedures for determining whether to close or consolidate a post office. This extension is in response to a request from a member of the United States House of Representatives.

DATE: The public comment period is extended until October 31, 1983.

ADDRESS: Written comments should be sent to General Manager, Delivery Services Department, U.S. Postal Service, 471 L'Enfant Plaza West, SW., Washington, D.C. 20260-7225. Copies of all written comments received will be available for public inspection and photocopying in Room 7406 at the above address between 9:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: William B. Thomas, (202) 245-5758.

SUPPLEMENTARY INFORMATION: The September 1, 1983 proposal (48 FR 39648-39653) requested that written comments be submitted by October 1, 1983. This notice extends the public comment period until October 31, 1983.

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-26771 Filed 10-3-83; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AMS-FRL 2445-4]

Motor Vehicle Emission Factors

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop which the Environmental Protection Agency will hold regarding possible revisions to the Agency's motor vehicle emission factors and the computer program MOBILE2 used to calculate composite emission factors for vehicle fleets. These emission factors are used by States in preparing State Implementation Plan revisions and by others engaged in determining the air quality impact of motor vehicles. The Agency's purpose in holding this workshop is to meet with those parties potentially possessing information which would be of use in revising the emission factors and to allow all interested parties to participate informally in the revision process.

DATE: The workshop is being held on Wednesday, October 26, 1983 at 8:30 a.m.

ADDRESS: The workshop will be held at EPA's Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Tom Darlington (313) 668-4473, Lois Platte (313) 668-4306, or Phil Lorang (313) 668-4374, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

SUPPLEMENTARY INFORMATION: EPA's current estimates of emission factors for motor vehicles are contained in the report "Compilation of Air Pollutant Emission Factors: Highway Mobile Sources," March 1981 (EPA-460/3-81-005). The emission factors and the arithmetical procedures for combining them into an estimate of the composite emission factors for a motor vehicle fleet have been automated in the computer program MOBILE2. The report and computer program were developed in 1980, and EPA preceives that in the intervening period enough additional information has become available to warrant consideration of revisions to both.

Although EPA is not required to invite public participation during the revision of the motor emission factors, EPA believes a series of public workshops will facilitate EPA's revision process by enabling EPA to receive valuable technical information in a timely fashion and to receive suggestions from those parties who may otherwise be interested in the revision process and its outcome.

The workshop announced here is the fourth of a series. At this fourth workshop, EPA plans to present some of the results of analysis work performed on in-use vehicle emissions which will be used in a revision to MOBILE2. EPA plans to discuss nonmethane hydrocarbon emissions, 1981 and later light-duty vehicle emission factors, and evaporative emissions. The Motor Vehicle Manufacturers Association (MVMA) plans discuss the treatment of outliers (very high emitting vehicles) in estimating emission factors. New speed and temperature correction factors and registration distributions may be discussed if time permits. Suggestions for additional topics should be made in advance of the workshop. Because of the technical nature of the agenda, participants should be familiar with the existing emissions factors and MOBILE2 to most fully contribute to the discussions.

This workshop will not discuss the programming aspects of the MOBILE2 computer program, such as its interface with other programs used in preparing emission inventories and air quality plans, and the language and equipment requirements of the program. A workshop may be scheduled at a later date to meet with parties interested in these areas in particular.

No rulemaking action is anticipated in connection with the revisions that will be the subject of this workshop. Consequently, the workshop will be very informal. There will be no opportunity for prepared statements in general, although prepared remarks will be welcome on specific issues as those are brought up for discussion. Although no public docket will be kept, written submissions are welcome at any time and may be brought to the workshop or mailed to Tom Darlington, Lois Platte, or Phil Lorang, or at the address set out above.

The Agency in addition requests that all persons planning to attend the workshop contact Tom Darlington, Lois Platte, or Phil Lorang.

Dated: September 27, 1983.

Joseph A. Cannon,
Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83-26999 Filed 10-3-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 83-38]

Notice of Inquiry and Intent To Review Regulation of Ports and Marine Terminal Operators

AGENCY: Federal Maritime Commission.

ACTION: Notice of Inquiry; Designation of Inquiry Officer.

SUMMARY: On September 14, 1983, the Commission published in the **Federal Register** (48 FR 41199) a Notice of Inquiry for the purpose of soliciting public comment on the regulation of ports and marine terminal operators under the Shipping Act, 1916 (46 U.S.C. 801 *et seq.*). The issues to be addressed include the filing and approval of terminal agreements, the need for continued antitrust immunity for marine terminal operators, and the Commission's future role in marine terminal regulation. The September 14 Notice enumerated 17 categories of questions on which the Commission has solicited written comment on or before December 12, 1983.

The Commission designates Commissioner Robert Setrakian to serve as Inquiry Officer. The Inquiry Officer is authorized to review the written comments received in response to the Notice and to take such steps as he deems necessary and appropriate to solicit and receive further comment, written or oral, in furtherance of the objectives of this Inquiry.

FOR FURTHER INFORMATION CONTACT: Robert Setrakian, Commissioner, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5721.

By the Commission, September 23, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-27013 Filed 10-3-83; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Parts 524, 531, 536

[Docket No. 83–43]

Exemption of Nonexclusive Transshipment Agreements From the Filing Requirements of the Shipping Act, 1916, and Clarification of Part 524; Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: This proposal would exempt nonexclusive transshipment agreements from FMC filing requirements. It also amends Part 524 to emphasize the scope of the exemptions granted by this Part to other categories of agreements. This proposal would relieve current regulatory burdens.

DATE: Comments (original and 15 copies) due on or before December 5, 1983.

ADDRESS: Comments and Inquiries to Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney (202) 523–5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission is considering the promulgation of a rule to amend 46 CFR Part 524 to exempt nonexclusive transshipment agreements (NTA's) from the *filing* requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814). An NTA is defined in § 524.2(a) of the Commission's Rules (46 CFR 524.2(a)) as:

> * * * an agreement between a carrier serving a port of origin and a carrier serving a port of destination to establish a through route between such ports via an intermediate port at which the cargo is transferred, which agreement does not prohibit either carrier from entering into similar agreements with other carriers.

Since May 14, 1968, NTA's have been exempt from the *approval* requirements of section 15. However, current regulations require that NTA's *be filed* with the Commission for information. Part 524 also requires that tariffs governing the transportation contemplated under NTA's contain the following information:

a. The through rate;

b. The routings (origin, transshipment, and destination ports);

c. Any additional charges;

d. Participating carriers; and

e. A tariff provision which indicates that the carriers' tariff will apply to the transportation provided by the connecting carrier.

Section 35 of the Act (46 U.S.C. 833a) provides that the Commission may exempt any class of agreements between persons subject to the Act from any requirement of the Act where it finds that such exemption will not substantially impair effective regulation by it, be unjustly discriminatory, or be detrimental to commerce.

Experience with NTA's suggests that:

1. No significant regulatory purpose is served by requiring NTA's to be filed pursuant to 46 CFR Part 524, although there has been occasional industry use of the information contained in these agreements;

2. The filing of NTA's for informational purposes has placed an unnecessary burden on the industry and the Commission's staff;

3. A regulation providing only for the filing of pertinent information in the tariff governing the through movement covered by the NTA would relieve both the staff and the regulated industry of an unnecessary burden;

4. NTA filings often include matters in the agreement which go beyond the parameters allowed by the exemption; and

5. Comparison of NTA filings with advertisements or news descriptions of the participating carriers' services sometimes suggests that the parties may be implementing arrangements much broader than simple nonexclusive transshipment arrangements, under the color of a G.O. 23 exemption. While the agreement filed here may meet the exact *pro forma* requirements of G.O. 23, the advertised service suggests elements of a joint service, such as joint advertising, slot chartering, agency arrangements, rationalization and exclusivity.

As indicated above, this proposal would exempt nonexclusive transshipment agreements, from the *filing* as well as approval requirements of section 15. Also, in order to assure that parties understand the limitations and ramifications of the exemptions provided in Part 524 and do not act beyond the parameters thereof, this proposal amends the "Statement of policy and purpose" to emphasize that the section 15 exemption for all agreements defined in Part 524 is limited specifically to the type of agreement defined in the rule. For example, transshipment agreements which contain elements broader than simple non-exclusive transshipment arrangements would not qualify for the exemption. This proposal also emphasizes the fact that any section 15 exemption granted does not confer antitrust immunity and points out that parties desiring such immunity should file their agreement for approval.

Certain FMC traffic regulations, both in the domestic and foreign commerce (46 CFR Part 531 and 46 CFR Part 536, respectively) will require amendment if NTA's are no longer filed with the Commission. The necessary changes are incorporated in this proposal.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Commission certifies that this rulemaking will not, if adopted, have a significant economic impact on a substantial number of small entities. The filing exemption will not impose any reporting or record keeping requirements which might result in a compliance or reporting burden on small entities. The exemption will primarily benefit carriers. The shipping public, some of whom undoubtedly are small entities may enjoy a secondary benefit from this exemption, but it is not foreseen that this benefit will amount to a "significant economic impact," within the meaning of 5 U.S.C. 605(b).

List of Subjects in 46 CFR Parts 524, 531 and 536

Maritime carriers.

Therefore, pursuant to 5 U.S.C. 553 and sections 15, 18, 35, and 43 of the Shipping Act, 1916 and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 814, 817, 833a, 841a, and 844), it is proposed that Parts 524, 531, and 536 of Title 46 CFR be amended as follows:

PART 524—[AMENDED]

1. Amend § 524.1 by revising paragraph (b) to read as follows:

§ 524.1 Statement of policy and purpose.

* * * * *

(b)(1) Any section 15, Shipping Act, 1916, exemption contained in this part is limited specifically to the types of agreements defined in § 524.2. Arrangements which contain elements other than those described by the definition in § 524.2 do not qualify for the exemption from section 15 and parties entering into and implementing such arrangements without filing and approval do so at their peril.

(2) Agreements exempted from the filing and/or approval requirements of section 15 pursuant to the provisions of this part are not exempt from the antitrust laws. Therefore, parties desiring antitrust immunity and approval of agreements otherwise exempt under this Part should petition the Commission for a section 15 determination in accordance with Part 522 of this chapter.

§ 524.3 Exemption of agreements.

2. Amend § 524.3 "Exemption of agreements," by removing from the first sentence the following:

" * * * and the form requirements of § 524.5 * * *."

§ 524.4 [Removed]

3. Remove § 524.4(b) in its entirety.

4. Redesignate present § 524.4(c) as (b) and revise it to read as follows:

§ 524.4 Conditions for exemption of transshipment agreements.

* * * * *

(b) Pertinent information about the nonexclusive transshipment agreement, to be contained in the applicable tariff or tariffs, shall include:

(1) The through rate;

(2) The complete name of the carriers entering into the transshipment arrangement and a specification of the portion of the service that each carrier will provide; the ports of origin and destination and the port or range of ports at which cargo will be transshipped; and

(3) A tariff provision substantially as follows: "The rules, regulations, rates and routings in this tariff shall apply to the transshipment arrangement between the publishing carrier or carriers and the participating, connecting or feeder carriers. Participating, connecting or feeder carriers, party to the transshipment arrangement, have agreed to observe the rules, regulations, rates and routings established herein."

§ 524.5 [Removed]

5. Remove § 524.5 in its entirety.

§ 524.5 [Redesignated from § 524.6]

6. Redesignate present § 524.6 as § 524.5.

§ 524.7 [Removed]

7. Remove § 524.7 in its entirety.

PART 531—[AMENDED]

8. Revise § 531.5(b)(8)(xii) to read as follows:

§ 531.5 Contents of tariffs.

* * * * *

(b) * * *

(8) * * *

(xii) *Transshipment Service.* Tariffs containing through rates for transshipment service shall also contain pertinent information that includes: (A) the complete name of the carriers entering into the transshipment arrangement and a specification of the portion of the service that each carrier will provide; the ports of origin and destination and the port at which cargo will be transshipped; and (B) a statement that reads substantially as follows: "The rules, regulations, rates and routings in this tariff shall apply to the transshipment arrangement between the publishing carrier or carriers and the participating, connecting or feeder carriers. Participating, connecting or feeder carriers, party to the transshipment arrangement, have agreed to observe the rules, regulations, rates and routings established herein."

* * * * *

PART 536—[AMENDED]

9. Revise § 536.3(j) to read as follows:

§ 536.3 Filing of Tariffs, General.

* * * * *

(j) A carrier's obligation to file tariffs pursuant to section 18(b) of the Act and this part must be carried out as follows: (1) When the carrier is not a party to an approved agreement, by filing its own tariffs or tariffs; and (2) when the carrier is a party to an approved agreement, by participation in a single tariff filed by the conference. No common carrier may be shown as a participant in a tariff filed by another carrier or conference where such participation has not been approved by the Commission pursuant to section 15 of the Act (except in those instances of non-exclusive transshipment agreements where Commission approval is not required pursuant to Part 524 of this chapter) or filed with the Commission pursuant to § 536.8(b).

* * * * *

10. Revise § 536.5(d)(13) to read as follows:

§ 536.5 Tariff Contents.

* * * * *

(d) * * *

(13) *Transshipment Service.* Tariffs containing through rates for transshipment service shall also contain a Routing Section as illustrated by Exhibit No. 8 which includes (i) a clear and thorough description of the routings employed (origin, transshipment and destination ports), additional charges levied, if any (i.e., port arbitrary and/or additional transshipment charges), and the participating carriers (originating, delivering and/or intermediate); and (ii) a statement reading substantially as follows:

The rules, regulations and rates apply to all transshipment arrangements between the participating carriers. Participating carriers have agreed to observe the rules, regulations, rates and routings established herein.

* * * * *

11. Amend Exhibit No. 8 to 46 CFR Part 536 as follows:[1]

a. The paragraph under the heading Routing Section in Exhibit No. 8 would be amended to read as follows:

The rules, regulations and rates apply to all transshipment arrangements between the participating carriers. Participating carriers have agreed to observe the rules, regulations, rates and routings established herein.

b. Exhibit No. 8 would be further amended by the deletion of the phrase "Agreement No. ———" wherever it appears in the Exhibit.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-26800 Filed 10-3-83; 8:45 am]

BILLING CODE 6730-01-M

[1] A copy of Exhibit No. 8, proposed to be amended, is filed with the original.

46 CFR Part 538

[Docket No. 81-54]

Allowing a Third Rebuttable Presumption Under the Uniform Merchant's Contract

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of proceeding.

SUMMARY: The Commission has determined to discontinue this proceeding without modifying the Uniform Merchant's Contract to allow for the inclusion of an optional provision raising a third rebuttable presumption "that the merchant paying the freight charges on a given shipment has the legal right to select the ocean carrier."

DATES: This discontinuance of the proceeding is effective October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Uniform Merchant's Contract (46 CFR 538.10) implements the provisions of section 14(b) of the Shipping Act, 1916, which authorizes the use by carriers or conferences of carriers of a dualrate system that provides for lower freight rates for merchants who pledge all or a fixed portion of their shipments to said carriers. By "Notice of Proposed Rulemaking" (46 FR 44998) published in the **Federal Register** on September 9, 1981, the Commission instituted this proceeding to allow the optional inclusion in the Uniform Merchant's Contract of a rebuttable presumption "that the merchant paying the freight charges on a given shipment has the legal right to select the ocean carrier." In response to the Notice, comments were received from 18 conferences, 7 shippers, and an association representing approximately 400 freight forwarders and customs brokers.

Upon review of the comments submitted and reexamination of the rule proposed, the Commission has determined that no regulatory purpose would be served by promulgating that rule at this time. Accordingly, the Commission is withdrawing the proposed rule and discontinuing this proceeding.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-26801 Filed 10-3-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 218

[FRA Docket No. RSOR-7, Notice 1]

Protection of Employees During Hump Operations

AGENCY: Federal Railroad Administration (FRA), Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to require that railroads establish procedures under which train and yard crews performing certain functions on hump yard tracks would be protected from possible injury or death as the result of unanticipated movement of the rolling equipment on which they are working. This action is being proposed in response to a joint request from the Association of American Railroads (AAR) and the United Transportation Union (UTU) that FRA establish uniform procedures for the protection of workmen in such facilities.

DATES: Written comments must be received not later than November 18, 1983. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESS: Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA shall submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 7321A of the Nassif Building at the above address.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Director, Office of Safety Analysis, FRA, Washington, D.C. 20590, Telephone: 202-426-4345.

SUPPLEMENTARY INFORMATION:

Background

Railroads assemble, disassemble, and reassemble freight trains in approximately 4000 classification yards in the contiguous 48 states. In approximately 125 such yards, railroads employ a gravity feed system to assist in the classification of freight cars for movement to destination. These are known as "hump yards." Although the configuration of hump yards varies considerably depending on location and yard capacity, their essential feature is a single track at the apex of a hill that branches into multiple tracks on one downward side of the hill.

Freight cars are shoved by a locomotive to the apex of the hill in long strings, uncoupled singly or in groups, and allowed to roll freely into the multiple tracts on the downward slope. Mechanical devices known as retarders are used to limit the speed at which the cars move down the hill. Routing of a car or group of cars to a particular track is accomplished by aligning the appropriate switches to direct the movement to the desired track. The group of tracks on the downside of the hill is commonly referred to as the bowl tracks of the yard.

When a freight car reaches the apex of the hill, i.e., the hump, the car is uncoupled manually. The individual in charge of the hump then activates a control panel to establish the routing for that car and to determine the amount of brake force to be applied by the retarder for controlling the speed and distance the car will be allowed to travel on the bowl tracks. After a group of cars has been allowed to enter a given bowl track, a yard crew, using a locomotive, couples the cars and connects the airhoses between them in order that they can be moved as a single unit. In performing these tasks, members of the yard crew must position themselves between the cars in such a manner that unanticipated movement of the cars poses a significant risk of injury.

Movement of the cars in the bowl results from use of the yard locomotive or from the impact of other cars entering the track from the hump. The risk of injury to members of the yard crew from unanticipated movement of the locomotive is remote since the person operating the locomotive is aware of their actions, of the risks associated with unanticipated movement, and of the need to be guided by the instructions of the exposed yard crew concerning when the cars can be moved safely. It is, therefore, the risk to the yard crew from unanticipated movement caused by the impact of another car arriving from the hump the FRA is addressing in this NPRM.

Current Practices

Recent FRA field investigation disclosed that, because of reduced traffic levels, not all existing hump yards are currently in operation. At those locations presently in service, the existing procedures for avoiding the risk

of unanticipated movement cause by the arrival of additional cars varies among the railroads and even among similar facilities operated by a single railroad. Of the 91 hump yards currently operating, there are 9 facilities where no protection is provided, 17 facilities where less than positive protection is provided, and 65 facilities where positive protection is provided. At the facilities providing positive protection the method for providing protection varies from informal communication between the yard crew and the operator of the hump to positive locking out of switches that provide access to the track being worked.

Accident Data

FRA has identified seven fatalities that occurred in bowl tracks during the eight years between 1975 and 1982. In each of these accidents, FRA conducted a field investigation to determine the caue of the employee's death. Three of these accidents directly involved the issue addressed by the NPRM, and in two other instances the level of protection being afforded yard crews was relevant. In the remaining instances the fact that the employees were performing tasks in the hump yard is unrelated to the circumstances addressed in this NPRM.

FRA data concerning injuries to yard and train crews does not include the type of facility where the injuries occur; consequently, FRA cannot identify those incidents that occurred in hump yards. Within the board category of on-the-job injuries to yard crews performing similar tasks, FRA has identified more than 5,000 reportable injuries that occurred during the calendar years 1978 through 1982. FRA believes that some of these incidents occurred in bowl tracks and could have been prevented by adherence to the procedures being proposed in this NPRM. FRA's belief is buttressed by the shared concern of rail labor and rail management expressed in their suggestion that FRA adopt regulations seeking to reduce the potential for injury in hump yards. However, to assist in further analysis of the accident data, FRA requests that commenters furnish any specific information at their disposal concerning the number of injuries to yard crews that can be attributed to the hazard addressed in this NPRM.

Section-by-Section Analysis

Section 218.39

This section would require that any railroad operating a hump yard adopt a specific rule that will mandate a minimum level of positive protection for employees. This operating rule could be incorporated in the existing Uniform Code of Operating Rules, the AAR Standard Code of Operating Rules, or an individual railroad's book of rules, general orders, timetable special instructions, or other similar documents.

FRA proposes that, in accordance with the joint recommendation of AAR/UTU, employees to be given protection are the train and engine service employees. Depending on local nomenclature, this would encompass individuals referred to as brakemen, switchmen, yardmen, conductors, yard crews, road crews, and footboard yardmasters, all of whom normally constitute train and engine service employees covered under the Hours of Service Act (45 U.S.C. 62; 49 CFR Part 228). The railroads could extend coverage of their operating rules beyond these employees, but it is essential that train and engine service employees be provided full protection under each carrier's rule.

The operating rule would require that covered employees be provided protection when engaged in coupling air hoses or adjusting coupling devices, which activities demand that they place themselves between rolling equipment. This rule would apply to components of these two general tasks, *e.g.*, replacement of airhose gaskets, turning angle cocks, and adjusting drawbars.

To provide protection, the hump operator, or similar person, would be required to activate a remotely controlled switch located near the apex of the hump, causing the switch to be aligned against movement to the affected track, and to apply a locking or blocking device to the control to prevent inadvertent use of the control mechanism. It should be noted that only this single switch must be activated to provide protection. The railroads could frame their operating rules so as to account for individual circumstances, provided only that the rule contains these essential elements. For example, computer systems could be used to provide the locking or blocking function. Each railroad would have the discretion to adopt any additional protective measures it deems appropriate.

To ensure effective protection, this regulation would, as AAR and UTU jointly recommended, require that the employees personally contact the operator of the remotely controlled switch, both to obtain protection and to permit removal of the protection. This individualized communication is necessary to preclude erroneous or inadvertent loss of protection. Although FRA is not proposing to require the use of any written log of notification for protection or removal of protection, the use of such systems would not be precluded by this proposal.

Section 218.41

This section would provide for the imposition of civil penalty sanctions for a railroad's failure to issue a rule as required by the regulation or to comply with its operating rule.

Appendix A

Appendix A to this part currently contains a detailed schedule of civil penalties setting forth FRA policy for assessment of particular monetary amounts in the event of violations. This schedule will be revised at the time an amendment based on this proposal is adopted.

Regulatory Impact

This NPRM has been evaluated in accordance with existing regulatory policies and it would be neither a "major" rule as defined under Executive Order 12291 nor a "significant" rule as defined under DOT regulatory policies and procedures. The rule would have a direct impact only on the thirty railroads that operate hump yards. To the degree that individual railroads within that group already have an analogous procedure, the rule will have virtually no economic impact. Although FRA is constrained in its analysis by the absence of well-defined economic and accident data, FRA has concluded that the rule will involve only minimal costs for the railroads and should have a positive economic impact through reduced accident costs. Because the economic impact of the regulation, as proposed, is expected to minimal, FRA has determined that further evaluation is not necessary at this time.

FRA requests that commenters provide information on the question of the economic impact of this regulation. FRA will analyze this data in determining whether to issue a final rule in this proceeding.

Since only railroads of considerable size operate hump yards, this rule would have no adverse impact on small entities. Based on the facts set forth in this NPRM, it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*). The NPRM does not constitute a significant rule under the DOT regulatory policies and procedures.

Paperwork Reduction Act

There are information collection requirements indirectly contained in this NPRM and these will be submitted to the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. No. 96–511). Until OMB approval is obtained for the information collection requirements, these provisions will not be effective. FRA specifically solicits comments on the potential paperwork burden imposed by the proposed regulations. The information collection requirements associated with this proposed rule stem from the provisions of §§ 217.7 and 217.9 of a related regulation. That regulation (49 CFR Part 217) requires all railroads to conduct periodic operational test to determine compliance with their rules and to provide the results of that testing together with a copy of their rules to FRA. The increase in the existing information collection requirements associated with adoption of this proposed rule have been submitted to OMB for review.

Public comments on the issue of information collection requirements should be directed both to FRA, in the manner provided for elsewhere in this notice, and to OMB. Communications to OMB should be submitted to Mr. Gary Waxman, Room 30001, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Environmental Impact

On June 16, 1980, FRA published (45 FR 40854) revised procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive orders, and DOT Order 5610.1C.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures categorically exempt certain actions from the requirements for an environmental assessment because they are not major actions.

The FRA environmental procedures also contain a provision that enumerates seven criteria which, if met, demonstrate that a non-categorically exempt action is not a "major" action for environmental purposes. These criteria involve diverse factors, including the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. This proposed rule meets the seven criteria that establish an action as a non-major action.

Public Participation

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Persons desiring that receipt of their communications be acknowledged should attach a stamped, pre-addressed postcard to the first page of their communication. Communications received before November 18, 1983, will be considered before final action is taken on the proposed rule. All comments received will be available for examination by interested persons at any time during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street S.W. Washington, D.C. 20590.

FRA has not scheduled a public hearing on this proposal since the facts do not warrant it. However, if requested by interested parties to provide an opportunity for oral comment, FRA will provide for a public hearing.

List of Subjects in 49 CFR Part 218

Railroad safety.

In consideration of the foregoing, FRA proposes to amend Part 218, Title 49, Code of Federal Regulations, as set forth below:

The Proposed Rule

1. 49 CFR Part 218 is amended by adding a new § 218.39, to read as follows:

§ 218.39 Hump Operations.

After January 1, 1984, each railroad that operates a hump yard facility must have in effect an operating rule that substantively adopts the following provisions:

(a) When a train or engine service employee is required to couple an air hose or to adjust a coupling device and that activity will require that the employee place himself between pieces of rolling equipment located on a bowl track, the operator of any remotely controlled switch that provides access from the apex of the hump to the track on which the rolling equipment is located shall be notified;

(b) Upon such notification, the operator of such remotely controlled switch shall line it against movement to the affected bowl track and shall apply a locking or blocking device to the control for that switch; and

(c) The operator shall then notify the employee that the requested protection has been provided and shall remove the locking or blocking device only after being notified by the employee that protection is no longer required on that track.

2. 49 CFR Part 218 is amended by adding a new § 218.41, to read as follows:

§ 218.41 Prohibited acts.

A railroad is subject to a penalty, as provided in Appendix A of this part, if it (a) fails to issue an operating rule as required by section 218.39 of this part or (b) fails to comply with its operating rule issued pursuant to section 218.39 of this part.

(Sec. 202, 84 Stat. 971 (45 U.S.C. § 431); sec. 1.49(m) of the Regulations of the Secretary of Transportation (49 CFR 1.49(m))

Issued in Washington, D.C., September 15, 1983.

Thomas A. Till,

Acting Administrator.

[FR Doc. 83-26732 Filed 10-3-83; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California; Pacific Coast Groundfish Fishery Management Plans; Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: The Pacific Fishery Management Council (Council) will hold hearings to receive public comments on (1) a framework amendment to the fishery management plan (FMP) for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California, and (2) an amendment to the Pacific Coast Groundfish FMP. These hearings are being held in accordance with the Magnuson Fishery Conservation and Management Act.

DATES: Written comments are invited through November 8, 1983. Individuals or organizations desiring to comment in person may do so at public hearings to be held on:

October 18, 1983—Seattle, Washington; Astoria, Oregon; and Arcata, California.

C Monterey, California nd, Oregon, and Monterey,California

October 20, 1983—Long Beach, California.

All public meetings will start at 7 p.m. and adjourn when all public testimony has been received.

ADDRESSES: Hearings will be held at:

Hyatt Seattle, Ballroom C and D, Sea-Tac Airport, 17001 Pacific Highway South, Seattle, Washington.

Astoria Middle School, Lunchroom, 1100 Klatskanine Avenue, Astoria, Oregon.

Humboldt State University, Gist Hall, Arcata, California.

Pony Village Inn, Ocean View Room, Virginia Avenue, N. Bend, Oregon.

Monterey Conference Center, Feranti Room, 1 Portola, Monterey, California.

California State University, Auditorium, 400 Gold Shore, Long Beach, California.

Written comments should be sent to Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201. Copies of both the salmon framework and the groundfish amendments are available at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph C. Greenley (Executive Director), 503–221–6352.

SUPPLEMENTARY INFORMATION: These hearings will deal with a proposed framework FMP amendment to the Washington, Oregon, and California commerical and recreational ocean salmon fisheries and nine issues in an amendment to the Pacific Coast Groundfish FMP.

The hearing on the framework amendment are to receive additional public comments on the framework procedures and modifications to the draft amendment because public hearings were last held in March and April (FR 11138; March 16, 1983). Imporant subjects on which the Council seeks additional public input are objectives, spawing escapement goals, allocation between ocean commercial and recreational fisheries, and the process for making between season adjustments to the ocean salmon regulations.

The hearing on the amendment to the groundfish FMP are to receive public comments on nine issues relevant to management of groundfish species in the fishery conservation zone off Washington, Oregon, and California. This amendment addresses the need to alter regulations that control the fishery and the groundfish resources, and provide the Council with added flexibility to respond to changing conditions in the fishery. The nine issues in the amendment are (1) commencement of the fishing year in January or April, (2) flexibility in the regulatory regime for Pacific ocean perch, (3) joint venture fisheries for Pacific whiting south of 39° N. latitude, (4) marking requirements for fixed gear, (5) vessel identification requirement, (6) inclusion of additional species in the groundfish management unit, (7) imposing a trip limit on sablefish as the optimum yield (OY) is approached, (8) pelagic gear footrope requirement, and (9) separate (numerical OY) management for northern jack mackerel.

(16 U.S.C. 1801 *et seq.*)

Dated: September 28, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-26990 Filed 10-3-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 193
Tuesday, October 4, 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

Agricultural Stabilization and Conservation Service

1983 Crop Soybean Final Loan and Purchase Rate

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Notice of determination fo 1983 Crop Soybean Final Level of Price Support.

SUMMARY: The purpose of this notice is to announce that the final level of price support for the 1983 soybean crop is $5.02 per bushel. This determination is required to be made by section 201(g)(1) of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Analysis Division, ASCS-USDA, P.O. Box 2415, Washington D.C. 20013. Telephone (202) 447–4417. Since this determination is calculated in accordance with the statutory formula, the requirement of an Impact Analysis has been waived.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 ans has been designated "not major." It was designated "not major" because it will not result in: (1) An annual Rate effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions; or (3) significant adverse impacts on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

The title and number of the federal assistance program this notice applies to are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

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

Section 201(g)(1) of the Agricultural Act of 1949, as amended, provides that the price of soybeans for each of the 1982 through 1985 marketing years shall be supported through loans and purchases at a level equal to 75 percent of the simple average price received by farmers for soybeans for each of the preceding five marketing years, excluding the high and low valued years, except that the support price may not be less than $5.02 per bushel. If the secretary determines that the simple average price producers receive for soybeans in any marketing year is not more than 105 percent of the level of loans and purchases for such marketing year, the support level may be reduced for the next marketing year by the amount which is determined to be necessary to maintain domestic and export markets for soybeans, except that the price support level cannot be reduced by more than 10 percent in any year nor below $4.50 per bushel.

Section 201(g)(1) also provides that the Secretary must make a preliminary announcement of the level of price support no earlier than 30 days prior to September 1, the beginning of the marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full information and statistics are available on prices for the five years preceding the beginning of the marketing year. The final level of price support must be announced no later than October 1 of the marketing year to which the announcement applies. The final level of support cannot be less than that of the preliminary announcement.

A preliminary level of price support of $5.02 per bushel for the 1983 crop of soybeans was determined and announced effective August 2, 1983 (48 F.R. 35476). As set forth below, it has been determined that the final level of price support for the 1983 crop of soybeans is $5.02 per bushel.

Determination

The simple average price received by farmers for soybeans for each of the preceding five years, excluding the high and low valued years, is $6.39 per bushel. This determination is based on the following data:

(1) SIMPLE-AVERAGE SOYBEAN PRICES DOLLAR PER BUSHEL

1978	$6.83
1979	$6.29
1980	$7.50
1981	$6.05
1982	$[1] 5.86

[1] Preliminary.

(2) Average of the five years, excluding the low valued year (1982) and the high valued year (1980): ($6.83 + $6.29 + $6.05)/3 = $6.39 per bushel.

(3) The final price support level calculation is $6.39 x .75 = $4.79. The calculated final price support level of $4.79 per bushel is less than the statutory minimum level of $5.02 per bushel. The simple average price of soybeans received by producers during the marketing year 1982 ($5.88 preliminary) exceeded one hundred and five percent of the 1982 price support level for soybeans ($5.02 x 1.05 = $5.27). There is, therefore, no basis for reducing the final price support level for soybeans below the statutory minimum level of $5.02 per bushel. Accordingly, the final 1983-crop soybean price support level is $5.02 per bushel.

(Sec. 201(g)(1) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446(g)(1))

Signed at Washington, D.C. on September 29, 1983.

Richard E. Lyng,
Acting Secretary.

[FR Doc. 83-27007 Filed 9-29-83; 2:44 pm]
BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Order 83-9-121]

Northeastern International Airway, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Board proposes to issue a cerificate of public convenience and necessity to Northeastern International Airways, Inc. to provide scheduled foreign air transportation of persons, property, and mail between the United States and Shannon, Ireland, and a point of points in the following foreign places: Antigua and Barbuda, Aruba, Bahama Islands, Barbados, Belize, Chile, Curacao, Dominican Republic, El Salvador, Grenada, Guadeloupe, Guatemala, Guyana, Haiti, Honduras, Jamaica, Martinique, Nicaragua, St. Kitts, St. Maarten, Trinidad and Tobago, Belgium, Federal Republic of Germany, Luxembourg, The Netherlands, and Switzerland.

Objections: All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than November 2, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40910, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all affected carriers and to the Department of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue, in accordance with the discussion contained in the show-cause order, the proposed cerificate.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington D.C. 20428, (202) 673–5203.

By the Civil Aeronautics Board: September 28, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-27032 Filed 10-3-83; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41454]

Midway (Southwest) Airway Co. Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 11, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., September 28, 1983.

John M. Vittone,
Administrative Law Judge.

[FR Doc. 83-27030 Filed 10-3-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Shop Towels of Cotton From the People's Republic of China; Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Antidumping duty order.

SUMMARY: In separate investigations, the United States Department of Commerce and the United States International Trade Commission (ITC) have determined that shop towels of cotton from the People's Republic of China are being sold at less than fair value and that sales of shop towels of cotton from the People's Republic of China are materially injuring a United States industry. Therefore, all entries, or warehouse withdrawals, for consumption of shop towels of cotton from the PRC made on or after March 28, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone: (202) 377–3963.

SUPPLEMENTARY INFORMATION: The product covered by this order is shop towels of cotton currently provided for in item 366.2740 of the *Tariff Schedules of the United States*.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on March 28, 1983, the Department published its preliminary determination that there was reason to believe or suspect that shop towels of cotton from the PRC were being sold at less than fair value (48 FR 12764). On August 16, 1983, the Department published its final determination that these imports were being sold at less than fair value (48 FR 37055).

On September 23, 1983, in accordance with section 735(b) of the Act (19 U.S.C. 1673(b)), the ITC notified the Department that such importations are materially injuring a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of shop towels of cotton from the PRC. This antidumping duty will be assessed on all shop towels entered, or withdrawn from warehouse, for consumption on or after March 28, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin as follows:

Exporter	Weighted-average margin (percent)
China National Textile Import & Export Corporation	30.1
China National Arts & Crafts Import & Export Corporation	37.2
All Others	36.2

This determination constitutes an antidumping order with respect to shop towels of cotton from the People's Republic of China, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). The

Department intends to conduct an administrative review within twelve months of publication of this order, as provided for in section 751 of the Act (19 U.S.C. 1675).

We have deleted from the Commerce Regulations, Annex 1 to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 27, 1983.

[FR Doc. 83-26890 Filed 10-3-83; 8:45 am]

BILLING CODE 3510-DS-M

Trade Adjustment Assistance; Petitions by Producing Firms for Determinations of Eligibility; Kanton Machine Corp., et al.

Petitions have been accepted for filing from the following firms: (1) Kanton Machine Corporation, 3580 Burnet Avenue, East Syracuse, New York 13057, producer of air compressors, breathing apparatus, pumps and parts (accepted August 18, 1983); (2) Ramsey Controls, Inc., 333 Route 17, Mahwah, New Jersey 07430, producer of electronic equipment, including motor speed controls and timers (accepted August 22, 1983); (3) Stylite Industries, Inc., 4655 Colorado Boulevard, Denver, Colorado 80216, producer of lighting fixtures and wood furniture (accepted August 24, 1983); (4) Liliston Corporation, P.O. Box 3930, Albany, Georgia 31708, producer of agricultural equipment (accepted August 25, 1983); (5) J. N. Machet Corporation, 509 East Montecito Street, Santa Barbara, California 93103, producer of lighting fixtures (accepted August 25, 1983); (6) Bobbie Brooks, Inc., 3830 Kelly Avenue, Cleveland, Ohio 44144, producer of women's skirts, blouses, jackets, pants, sweaters and swimwear (accepted August 26, 1983); (7) W.P. Keith Company, Inc., 8323 Loch Lomong Drive, Pico Rivera, California 90660, producer of industrial kilns and furnaces (accepted August 26, 1983); (8) Concordia Jewelry Company, Inc., 20 West 47th Street, New York, New York 10036, producer of jewelry (accepted August 29, 1983); (9) OK Machine and Manufacturing Company, Inc., 421 East 1st Street, Tulsa, Oklahoma 74120, producer of pipe couplings (accepted August 30, 1983); (10) Forestville Aluminum, Inc., P.O. Box 98, Forestville, New York 14062, producer of aluminum castings, valves and faucets (accepted August 31, 1983); (11) Nicholl Brothers, Inc., 1204 West 27th Street, Kansas City, Missouri 64108, producer of lanterns and power-failure lights (accepted August 31, 1983); (12) Fine Vines, Inc., P.O. Box 873, Greenville, Mississippi 38701, producer men's women's and boys', pants, shorts, jackets, vests, coveralls, lab coats, aprons and pajamas (accepted August 31, 1983); (13) Cuyuna Engine Company, P.O. Box 116, Crosby, Minnesota 56441, producer of light engines and parts (accepted September 1, 1983); (14) U.S. Lingerie Corporation, East Fifth and Friendship, Donalsonville, Georgia 31754, producer of women's robes, tops, shorts, rompers and warmup suits (accepted September 6, 1983); (15) The Central Manufacturing Company, Inc., P.O. Box 6417, Caguas, Puerto Rico 00625, producer of apparel belts (accepted September 6, 1983); (16) Hoffland Honey Farm, Route 1, Marshall, Wisconsin 53559, producer of honey (accepted September 6, 1983); (17) Rosco Tools, Inc., 100 Landing Avenue, Smithtown, New York 11787, producer of screwdrivers, nut drivers and mallets (accepted September 6, 1983); (18) Guterl Special Steel Corporation, P.O. Box 509, Lockport, New York 14094, producer of specialty steel (accepted September 7, 1983); (19) Chem-Fleur, Inc., 200 Pulaski Street, Newark, New Jersey 07105, producer of chemicals (accepted September 7, 1983); (20) Waukesha Alaska Corporation, P.O. Box 111098, producer of generators, pumps, compressors and lift trucks (accepted September 7, 1983); (21) Thunderbird Industries, Inc., P.O. Box 12849, Salem, Oregon 97303, producer of rock crushing equipment (accepted September 7, 1983); (22) Thomas Machine and Foundry, Inc., P.O. Box 2066, Lynnwood, Washington 98036, producer of metal castings and patterns (accepted September 7, 1983); (23) Troy Furniture Components Company, Inc., 1970 Gladwick Street, Compton, California 90220, producer of furniture components (accepted September 7, 1983); (24) Stanislous County Cheese Company, 3141 Sierra Avenue, Riverbank, California 95367, producer of cheese and cream (accepted September 7, 1983); (25) Lewis Bolt and Nut Company, 504 Malcolm Avenue, S.E., Minneapolis, Minnesota 55414, producer of industrial fasteners (accepted September 8, 1983); (26) Northland Products, Inc., P.O. Box 219, Richford, Vermont 05476, producer of hockey sticks (accepted September 9, 1983); (27) Colorado Leather Goods, 2590 Durango Drive, Colorado Springs, Colorado 80906, producer of wallets, belts, handbags and headwear (accepted September 9, 1983); (28) Caribbean Plastics, Inc., Box, 207 Pueblo Station, Carolina, Puerto Rico 00628–0207, producer of plastic bottles and straws (accepted September 9, 1983); (29) Paolo Manufacturing Corporation, P.O. Box 10625, Caparra Heights Station, San Juan, Puerto Rico 00922, producer of men's and boys' shirts (accepted September 9, 1983); (30) Cornwall Industries, Inc., P.O. Box 219, South Paris, Maine 02981, producer of wood housewares and clocks (accepted September 12, 1983); (31) Almor Company, Inc., P.O. Box 1790, Brockton, Massachusetts 02403, producer of electric cord sets (accepted September 12, 1983); (32) D. J. Andrews, Inc., 17 Silver Street, Rochester, New York 14850, producer of set screws and machinery parts (accepted September 12, 1983); (33) Ted Sobiech Farms, Box 158, Pine Island, New York 10969, producer of onions, celery and lettuce (accepted September 9, 1983); (34) Starbright Sportswear, Ltd., 222 44th Street, Brooklyn, New York 11232, producer of women's sweaters (accepted September 12, 1983); (35) Accurate Threaded Fasteners, 3550 West Pratt Avenue, Chicago, Illinois 60645, producer of industrial fasteners (accepted September 12, 1983); (36) National Chain Company, 55 Access Road, Warwick, Rhode Island 02886, producer of jewelry chains (accepted September 12, 11983); (37) Ari Knitting Mills, Inc., 43 Hall Street, Brooklyn, New York 11205, producer of men's women's and children's sweaters (accepted September 14, 1983); (38) Gem Lingerie Company, Inc., 418 Broome Street, New York, New York 10013, producer of women's knit tops (accepted September 14, 1983); (39) Newport Seafood Company, Inc., P.O. Box 1547, Newport, Oregon 97365, Producer of seafood (accepted September 14, 1983); (40) Olson Irrigation System, 8765–1 Olive Lane Santee, California 92071, producer of irrigation equipment (accepted September 14, 1983); (41) Gennett Lumber Company, Inc., 91 Thompson Street, Asheville North Carolina 28803, producer of hardwood lumber (accepted September 14, 1983); (42) Heath Ceramics, Inc., 400 Gate Five Road, Sausalito, California 94965, producer of dinnerware (accepted September 14, 1983); (43) The Wurlitzer Company, 403 East Gurler Road, De Kalb, Illinois 60115, producer of pianos, organs and other electronic products (accepted September 15, 1983); (44) San Juan Cement Company, Inc., G.P.O. Box 2888, San Juan, Puerto Rico 00936, producer of

cement (accepted September 15, 1983); and (45) Macaribe Manufacturing Company, Inc. P.O. Box 97, Las Piedras, Puerto Rico 00671, producer of wood furniture (accepted September 15, 1983).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 83–26973 Filed 10–3–83; 8:45 am]

BILLING CODE 3510–M

Applications for Duty Free Entry of Scientific Instruments; Medical College of Wisconsin, Inc., et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–308. Applicant: Health Research, Incorporated, Roswell Park Division, 666 Elm Street, Buffalo, NY 14263. Instrument: Electron Microscope, Model H–600–2 and Accessories. Manufacturer: Hitachi, Japan. Intended use of instrument: The instrument is intended to be used for studies of cells and tissues derived from human and animal malignancies, and subcellular fractions and molecules from these cells. Experiments will be conducted in order to investigate how cells become malignant by exposure to carcinogens and tumor promoters; how various drugs intercept this process; how cancer genes work and what controls the gene expression and the duplication of DNA and how environmental pollutants and anticancer drugs distribute in cells and tissues. Application received by Commissioner of Customs: September 16, 1983.

Docket No.: 83–309. Applicant: The Medical College of Wisconsin, Inc., 8701 Watertown Plank Road, Milwaukee, WI 53226. Instrument: Cryo Microtome, LKB 2250/041, Type 450 MP and Accessories. Manufacturer: Palmstiernas Mekaniska Verkstad AB, Sweden. Intended use of instrument: The instrument is intended to be used to section large undecalcified tissues of quality never before feasible during investigations of gross morphology of whole human organs. Application received by Commissioner of Customs: September 16, 1983.

Docket No.: 83–310. Applicant: Mayo Foundation, 200 First Street, S.W., Rochester, MN 55905. Instrument: Titanium Product System for Osseointegration. Manufacturer: Bofors Nobelpharma, Sweden. Intended use of insturment: The instrument is intended to be used in a reasearch project based upon the principle of osseointegration i.e., to develop improved surgical and prosthetic techniques which can be expected to reduce bone loss and improve the function of permanent anchored bridges. Application received by Commissioner of Customs: September 16, 1983.

Docket No.: 83–311. Applicant: USDA-ARS, Southern Weed Science Laboratory, P.O. Box 225, Stoneville, MS 38776. Instrument: Electron Microscope, EM 10CR and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used to examine various tissues from both weeds and crops, for the purpose of investigating the mechanisms of action of various herbicides and to investigate the cell biology of crops and weeds. Additionally, soil and plant samples will be examined in the scanning transmission and scanning modes to determine both the surface characters of these specimens and, with the attachment of the X-ray microanalysis equipment to determine the quantities and distributions of elements in the samples. Application received by Commissioner of Customs: September 19, 1983.

Docket No.: 83–312. Applicant: University of Hawaii, Pacific Biomedical Research Center, Honolulu, HI 96822. Instrument: Electron Microscope, EM 10CA and Accessories. Manfacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for high resolution low and high magnification electron microscopy of *Paramecium caudatum* cells to study and quantitate variations in cellular membrane pools under various normal and experimentally produced changes in cell growth and physiology. The instrument will also be used to a lesser extent for teaching purposes—providing students in the Minority Access to Research program with some training in electron microscopy and graduate students in biology training when apropriate and for their M.S. or Ph.D. thesis research when this requires electron microscopy. Application received by Commissioner of Customs: September 19, 1983.

Docket No.: 83–313. Applicant: The Johns Hopkins University, Room 416, Jenkins Hall, 34th & Charles Streets, Baltimore, MD 21218. Instrument: Electron Microscope, EM 420 ST and Accessories. Manufacturer: NV Philips, The Netherlands. Intended use of instrument: The insturment is intended to be used for studies of the following:

(1) Collagen fibre structure and distribution using electron stains specific for methionine or for sugars;

(2) Organization of chromatin using small but detectable heavy atom labels, and mapping of genes with heavy atom labeled m-RNA;

(3) Determination of binding of ribosomal proteins on r-RNA;

(4) Cytochalasins and proteins that appear to interact specifically with the ends of actin filaments;

(5) Three large proteins to provide low resolution trial structures for subsequent refinement with x-ray diffraction of their crystals;

(6) Study of the distribution of antigens on human sperm using monoclonal antibodies; and

(7) Morphological changes accompanying phototoxicity of rat retinal rods and cones.

The instrument will also be used in the training of graduate students and post-doctoral trainees. Application received by Commissioner of Customs: September 20, 1983.

Docket No. 83-314. Applicant: The Johns Hopkins University, Olin Hall 330, Charles & 34th Streets, Baltimore, MD 21218. Instrument: Electron Microscope, EM 420 ST and Accessories. Manufacturer: NV Philips, The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of minerals, advanced technological materials, rocks, and crystalline chemicals. Experiments will be conducted in order to advance the understanding of geochemical and physical processes in important minerals and rocks; to understand the effects of heat treatment and other processing on rocks and technological materials; and to improve the ability to predict the effects of different processing conditions on technologically advanced materials. The instrument will also be used in the dissertation research of graduate students in the earth sciences and materials sciences as well as in the training of postdoctoral researchers in advanced electron optical methods of materials characterization. Application received by Commissioner of Customs: September 20, 1983.

Docket No. 83-315. Applicant: Eye Research Institute of Retina Foundation, 20 Staniford Street, Boston, MA 02114. Instrument: Electron Microscope, EM 410LS and Accessories. Manufacturer: NV Philips, The Netherlands. Intended use of instrument: The instrument is intended to be used for varied research projects which include: studies of cell motility and adhesion as they relate to migration of the corneal epithelium, adhesion of corneal epithelium to its collagenous substrate and cells of the aqueous outflow pathway. Application received by Commissioner of Customs: September 20, 1983.

Docket No. 83-316. Applicant: V.A. Medical Center, Veterans Administration, Supply Service, Bldg. 222, Fort Snelling, St. Paul, MN 55111. Instrument: Electron Microscope, EM 10 CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for studies of biopsies of human tissues obtained as part of the examination of tissues removed at surgery to establish pathological diagnosis. The article will also be used to train premedical and biology graduate students in aspects of cell biology relating to mammalian reproduction in the course Mammalian Reproduction. Application received by Commissioner of Customs: September 20, 1983.

Docket No. 83-317. Applicant: Mayo Foundation, 200 First Street Southwest, Rochester, MN 55905. Instrument: Cryo-microtome/Sledge Type, LKB 2258-041. Manufacturer: LKB Produckter, AB, Sweden. Intended use of instrument: The instrument is intended to be used for: investigations of autoradiographic drug and chemical distribution studies in whole animals and in human cancers; histochemical studies of drug and enzyme localization in cells and tissues of large specimens; metabolism studies of drug in human cancers; gross morphology and low powered light microscopy examination of whole human cancers and animal tissues to correlate drug concentrations with different cell types. Application received by Commissioner of Customs: September 21, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 83-29079 Filed 10-3-83; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF EDUCATION

Asbestos Hazards School Safety Task Force; Meeting

AGENCY: Asbestos Hazards School Safety Task Force, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forth coming meeting of the Asbestos Hazards School Safety Task Force. This notice also describes the functions of the Task Force. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: October 25 and 26, 9:00 a.m.–4:30 p.m.

ADDRESS: U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C., Room 1134, Barnard Auditorium.

FOR FURTHER INFORMATION CONTACT:

W. Stanley Kruger, State and Local Educational Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202; (202) 245-8506.

SUPPLEMENTARY INFORMATION: The Asbesto Hazards School Safety Task Force is established under Section 3 of the Asbestos School Hazard Detection and Control Act of 1980 (20 U.S.C. 3602).

The Task Force is established to compile medical, scientific, and technical information explaining the health and safety hazards associated with asbestos materials and the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers, and to disseminate this information to State and local educational agencies in order to assist them in conducting their asbestos detection and control activities. The Task Force reviews any guidelines established by the environmental Protection agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools. The purpose of the review is to determine whether any modification of such guidelines should be recommended to the Secretary.

The meeting of the task Force is open to the public. The proposed agenda includes:

1. Review of Federal activities concerned with asbestos in schools.

2. Review of the Environmental Protection Agency's new guidance document.

3. Review of the Department of Education's regulations for the Asbestos School Hazard Detection and Control Act of 1980.

4. Dissemination of scientific and medical data regarding the exposure of school children and school personnel to asbestos.

Records shall be kept of all Task Force proceedings, and are available for public inspection at the Department of Education, Office of Elementary and Secondary Education, between the hours of 9:30 and 5:00, Monday through Friday.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-27001 Filed 10-3-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Certification of the Radiological Condition of the Former Kellex Laboratory, Located in Jersey City, New Jersey

AGENCY: Office of Terminal Waste Disposal and Remedial Action, Energy.

ACTION: Notice of certification.

SUMMARY: The Department of Energy has completed radiological surveys and taken remedial actions to decontaminate properties found to contain low-level, naturally occurring residual radioactive material resulting from research and development projects at the former Kellex Laboratory while it operated under contract to the Manhattan Engineer District and Atomic Energy Commission. The Department, through the Office of Terminal Waste Disposal and Remedial Action has issued the following statement: Statement of Certification: the Former Kellex Laboratory Site, Jersey City, New Jersey

The Office of Terminal Waste Disposal and Remedial Action has reviewed and analyzed the radiological data obtained following remedial action on the site once occupied by the former Kellex Laboratory in Jersey City, New Jersey. Based on this analysis and the concurrence of the New Jersey Department of Environmental Protection, the Department of Energy certifies that the following properties are in compliance with all applicable decontamination criteria and standards:

• Lots 1–G, 1–J, 1–L, 1–M, and 1–N of Blocks 1288.1, now known as Block 1288A (reference Jersey City Tax Maps).

This certification of compliance provides assurance that unrestricted use of any of the properties will result in no radiological exposure above applicable criteria and standards to members of the general public or to site occupants.

FOR FURTHER INFORMATION CONTACT: J. E. Baublitz, Director, Division of Remedial Action Projects, Office of Terminal Waste Disposal and Remedial Action (NE–24), U.S. Department of Energy, Washington, D.C. 20545, (301) 353–5272.

SUPPLEMENTARY INFORMATION: The Department of Energy has established a program to characterize and, where necessary, correct the radiological conditions at sites formerly used by the Army Corps of Engineers' Manhattan Engineer District and the Atomic Energy Commission during the early years of nuclear research, development, and production. The ultimate objective of the program is to ensure that these formerly utilized sites, and any associated properties in their vicinity, are within the radiological guidelines established to protect the general public. The former Kellex Laboratory in Jersey City, New Jersey, is one of the formerly utilized sites.

The M. W. Kellogg Company established the Kellex Corporation as a wholly owned subsidiary in 1943 under contract to the Manhattan Engineer District to design the first gaseous diffusion uranium enrichment plant to be built in Tennessee. The laboratory continued work until July 1952 developing various solvent extraction methods under contract to the Atomic Energy Commission. At the time of its closing, the laboratory was controlled by the Vitro Corporation of America.

Radiological surveys completed at the site in 1977 revealed the presence of surface and subsurface radiological contamination. Decontamination activities were begun in 1979. The Delco-Levco Venture property was certified to comply with site specific guidelines on September 14, 1979, following a post-remedial action radiological survey by the Oak Ridge National Laboratory. Following remedial action on the remaining lots of the former Kellex Laboratory site, the Oak Ridge National Laboratory conducted an independent radiological survey and determined that the decontamination criteria were met.

The Department of Energy coordinated its activities with the New Jersey Department of Environmental Protection which verified Department of Energy results through independent analysis of soil samples.

Based upon the results of the radiological surveys completed at the five properties, the Department of Energy has determined that radiological conditions on the affected properties are consistent with applicable criteria agreed upon by the New Jersey Department of Environmental Protection and that the unrestricted use of the property presents no radiological hazards to the general public or to site occupants.

These findings are supported by the Department of Energy "Certification Docket for the former Kellex Laboratory, Jersey City, New Jersey." The docket will be available for review between 8:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays), in the Department of Energy Public Document Room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.

Dated: September 13, 1983.

F. E. Coffman,

Director, Office of Terminal Waste Disposal and Remedial Action.

[FR Doc. 83–27011 Filed 10–3–83; 8:45 am]

BILLING CODE 6450–01–M

Inventions Available for License

The Department of Energy hereby announces a number of inventions available for license, in accordance with 35 U.S.C. 207–209, in order to achieve expeditious commercialization of results of federally funded research and development. For further information concerning licensing of the inventions, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, GC–42, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of specifications of the listed U.S. patent applications may be obtained, for a modest fee, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22151.

Signed at Washington, D.C. on this 27th day of September, 1983.

United States Department of Energy.

Theodore J. Garrish,

General Counsel.

U.S. Department of Energy

Assistant General Counsel for Patents, Washington, D.C. 20585

Patent Application 206,409—Method of Preparing High-Temprature-Stable Thin-Film Resistors

Patent Application 240,647—Horizontal Film Balance Having Wide Range and High Sensitivity

Patent Application 260,624—Clamp for Use in Winding Large Magnet Coils

Patent Application 281,307—Method and Apparatus for Automatically Tracking a Workpiece Surface

Patent Application 340,591—Method for Reprocessing and Separating Spent Nuclear Fuels

Patent Application 340,621—Nuclear Radiation Actuated Valve

Patent Application 340,622—Apparatus and Method for Reprocessing and Separating Spent Nuclear Fuels

Patent Application 340,624—Method and Apparatus for Controlled Size Distribution of GEL Microspheres Formed From Aqueous Dispersions

Patent Application 340,625—Material Bagging Device

Patent Application 340,626—Apparatus and Method for Reprocessing and Separating Spent Nuclear Fuels

Patent Application 340,904—Wheel-Type Magnetic Refrigerator

Patent Application 340,905—shutdown System for a Nuclear Reactor

Patent Application 340,907—Compensated Intruder-Detection Systems
Patent Application 340,958—Novel 7-Substituted Coumarin Compounds and an Improved Method for Their Synthesis
Patent Application 341,021—Downhole Refractive-Index Logging Device
Patent Application 341,374—Inductive Storage Pulse Circuit Device
Patent Application 342,431—Phase Multiplication Holography
Patent Application 342,443—Locking Mechanism for Indexing Device
Patent Application 342,678—Short Pulse Free Electron Laser Amplifier
Patent Application 342,679—Free Electron Laser Designs for Laser Amplification
Patent Application 342,680—Multifrequency, Single Pass Free Electron Laser
Patent Application 342,681—Method for Spectrochemical Analysis Using Time-Resolved Laser-Induced Breakdown
Patent Application 342,682—Circular Free-Electron Laser
Patent Application 342,683—Doped Semiconductor Material and Method for Doping Same
Patent Application 342,684—1-^{11}C-D-Glucose and Related Compounds
Patent Application 342,982—Electron Beam Magnetic Switch for a Plurality of Free Electron Lasers
Patent Application 343,606—Cathode Preparation Method for Molten Carbonate Fuel Cell
Patent Application 343,607—Portable Battery-Free Charger for Radiation Dosimeters
Patent Application 343,608—Cutting Fluid for Machining Fissionable Materials
Patent Application 343,609—Slag Capture and Removal During Laser Cutting
Patent Application 343,610—Continuous Production of Ethanol by Use of Flocculent Zymomonas Mobilis
Patent Application 343,612—Photosensitivity Enhancement of Plzt Ceramics by Positive Ion Implantation
Patent Application 343,613—Bidirectional Slapper Detonator
Patent Application 343,614—Spark Gap Device for Precise Switching
Patent Application 343,615—Cutting Assembly
Patent Application 343,666—Process for Photosynthetically Splitting Water
Patent Application 343,792—DC Plasma Sprayed Electronic Tube Device
Patent Application 343,793—Fuel Rod Retention Device for a Nuclear reactor
Patent Application 343,802—Apparatus for Shifting the Wavelength of Light
Patent Application 343,803—Method for Forming Microspheres for Encapsulation of Nuclear Waste
Patent Application 343,804—Roundness Calibration Standard
Patent Application 344,084—Method of Preparing Silicon From Sodium Fluosilicate
Patent Application 344,161—Clamshell Tomograph
Patent Application 345,442—New Prodrugs Based on Phospholipid-Nucleoside Conjugates
Patent Application 345,457—Process for Recovering Rhenium From an Alloy Thereof
Patent Application 345,460—Explosive Double Salts and Preparation
Patent Application 345,458—Silicon Tetrafluoride Generation
Patent Application 347,215—Thin Film Absorber for a Solar Collector
Patent Application 347,757—Cyclotron Axial Ion Beam Buncher System
Patent Application 347,758—Front Lighted Shadowgraphic Method and Apparatus
Patent Application 347,759—Eddy Current Angle Probe
Patent Application 347,760—Negative Ion Generator
Patent Application 349,224—Ball Mounting Fixture for a Roundness Gage
Patent Application 349,225—Process for the Production of Ethylene and Other Hydrocarbons From Coal
Patent Application 349,959—Modified Laser-Annealing Process for Improving the Quality of Electrical P-N Junctions and Devices
Patent Application 351,378—Method of Forming a Thin Unbacked Metal Foil
Patent Application 341,389—Grooved Impactor and Inertial trap for Sampling Inhalable Particulate Matter
Patent Application 351,679—Electric Filter With Movable Belt Electrode
Patent Application 352,738—Method of Sputter Etching a Surface
Patent Application 352,743—Bag-Out Material Handling System
Patent Application 352,744—Laser Beam Alignment System
Patent Application 352,745—Stabilizing Windings for Titlting and Shifting Modes
Patent Application 352,749—Bag-Out Material Handling System
Patent Application 271,060—Magnetocumulative Generator
Patent Application 343,666—Process for Photosynthetically Splitting Water
Patent Application 354,419—Personnel Electronic Neutron
Patent Application 354,465—Nuclear Reactor Fuel Element Having Improved Heat Transfer
Patent Application 354,552—Variable energy collimator for High Energy Radiation
Patent Application 354,553—Low Density, Microcellular Foams, Preparation, and Articles
Patent Application 354,571—Method for Producing Highly Reflective Metal Surfaces
Patent Application 354,573—Primary enzyme Quantitation
Patent Application 356,562—Resonant Circuit Which Provides Dual Frequency Excitation for Rapid Cycling of an Electro-Magnet
Patent Application 356,567—Ultrasonic Hydrometer
Patent Application 356,568—Precision Translator
Patent Application 356,569—Combination Pipe Rupture Mitigator and In-Vessel Core Catcher
Patent Application 356,581—Liquid-Film Electron Stripper
Patent Application 357,533—A Variable Current Speed Controller for Eddy Current Motors
Patent Application 357,536—Agitation Apparatus
Patent Application 358,083—Multiwire Conductor Having Increased Interwire Resistance and Good Mechanical Stability and Method for Making Same
Patent Application 358,083—Telescoping Magnetic Ball Bar Test Gage
Patent Application 358,085—Multiwire Conductor Having Greatly Increased Interwire Resistance and Method for Making Same
Patent Application 358,086—Mechanically Stable, High Aspect Ratio, Multifilar, Wound, Ribbon-Type Conductor and Method for Manufacturing Same
Patent Application 358,959—Method of Removing Polychlorinated Biphenyl From Oil
Patent Application 358,960—Pocket Radiation Dosimeter-Dosimeter Charger Assembly
Patent Application 358,962—Reactivity Control Assembly for Nuclear Reactor
Patent Application 358,963—Valve for Gas Centrifuge
Patent Application 359,973—Helix Coupling
Patent Application 360,116—Method of Deposition of Silicon Carbide Layers on Substrates
Patent Application 360,965—Automatic Safety Rod for Reactors
Patent Application 360,966—Long Lifetime, Low Intensity Light Source for use in Nightime Viewing of Equipment Maps and Other Writings
Patent Application 361,151—Additive for Iron Disulfide Cathodes Used in Thermal Batteries
Patent Application 361,152—Portal Radiation Monitor
Patent Application 361,932—Gas-Tungsten Arc Welding of Aluminum Alloys
Patent Application 361,952—Solar Thermal Energy Collection/Storage Pond System
Patent Application 361,954—Optical Double-Split Particle Measuring System
Patent Application 362,172—Instrument and Method for Focusing X-Rays, Gamma Rays, and Neutrons
Patent Application 362,422—Soft X-Ray Laser Using Pumping of 3P and 4P Levels of He-Like and H-Like Ions
Patent Application 363,201—Wire Chamber Radiation Detector With Discharge Control
Patent Application 363,971—The Raman Accumulator as a Fusion Laser Driver
Patent Application 363,979—Apparatus and Method for Quantitatative Assay of Generic Transuranic Wastes From Nuclear Reactors
Patent Application 364,060—Process for Removing Halogenated Aliphatic and Aromatic Componds From Petroleum Products
Patent Application 364,276—Modular Low Aspect Ratio-High Beta Torsatron
Patent Application 364,282—Production of Aluminum Metal by Electrolysis of Aluminum Sulfide
Patent Application 365,133—Purged Window Apparatus
Patent Application 368,197—Combined Fluidized Bed Retort and Combustor
Patent Application 368,198—Solar Heated Rotary Kiln
Patent Application 368,199—Method for Preparing Rare Earth Sesquichalcogenides

Patent Application 368,245—Power Efficiency for Very High Temperature Solar Thermal Cavity Receivers
Patent Application 369,305—Wrist Watch Dosimeter
Patent Application 369,965—Glass Ceramic-to-Metal Seals
Patent Application 370,639—Low Temperature Thermally Regenerative Electrochemical System
Patent Application 371,743—Detection System for a Gas Chromatograph
Patent Application 371,744—Ion Source for High-Precision Mass Spectrometry
Patent Application 371,745—Composite Polymeric Film and Method for Its Use in Installing a very Thin Polymeric Film in a Device
Patent Application 372,348—Coal Storage Hopper With Vibrating Screen Agitator
Patent Application 372,861—High Pressure Liquid Level Monitor
Patent Application 373,076—Combination Moisture and Hydrogen Getter
Patent Application 258,351—Appartus for a Method of Monitoring for Breached Fuel Elements
Patent Application 266,247—Apparatus and Method for Detecting A Magnetic Anomaly Contiguous To Remove Location By Squid Gradiometer and Magnetometer Systems
Patent Application 274,120—Low-Noise Pulse Conditioner
Patent Application 279,391—Corner Cutting Mining Assembly
Patent Application 298,448—Radiation Dosimeter
Patent Application 374,655—Two-Dimensional Optimization of Free Electron Laser Designs
Patent Application 374,675—Process for Reducing Series Resistance of Solar Cell Metal Systems With a Soldering Flux Etchant
Patent Application 374,847—Ion Soure
Patent Application 375,232—Phenolic Cation Exchange Resin Material for Recovery of Cesium and Strontium
Patent Application 375,518—Infrared Photoemitting Diode Having Reduced Work Function
Patent Application 375,519—Process for the Synthesis of Iron Powder
Patent Application 375,523—Axial Static Mixer
Patent Application 375,525—Glass Capable of Ionic Conduction and Method of Preparation
Patent Application 375,529—Microwave Diode
Patent Application 375,645—Method and Apparatus for Generating A Natural Crack
Patent Application 376,088—Optical Diffraction Method for Determining Crystal Orientation
Patent Application 377,773—Portable Instrument for Inspecting Irradiated Nuclear Fuel Assemblies in a Water-Filled Storage Pond by Measurement of Induced Cerenkov Radiation
Patent Application 377,898—Apparatus for Irradiating a Continuously Flowing Stream of Fluid
Patent Application 379,418—Device and Method for Measuring the Coefficient of Performance of a Heat Pump
Patent Application 379,797—Micro-Triggered Laser Switch
Patent Application 379,798—Combustion Pinhole Camera System
Patent Application 379,799—Method for Preparing Surfaces of Metal Composites Having a Brittle Phase for Plating
Patent Application 379,800—Precipitation-Adsorption Process for the Decontamination of Nuclear Waste Supernates
Patent Application 379,801—Preparation of Metal Phosphates by a Reaction Using Boron Phosphates
Patent Application 381,277—Extrusion-Formed Uranium-2.4 Wt. % Article With Decreased Linear Thermal Expansion and Method for Making the Same
Patent Application 382,061—Furfuryl Alcohol Cellular Product
Patent Application 382,997—Method and Apparatus for Determining Tensile Strength
Patent Application 382,998—Feedthrough Terminal for High Power Cell
Patent Application 383,048—Protective Supplied Breathing Air Garment
Patent Application 383,880—Method of Preparing Nuclear Wastes for Transportation and Interim Storage
Patent Application 384,306—Spring Bypass Assembly
Patent Application 384,307—Grapple Assembly
Patent Application 385,202—Electrochemical Cell Having an Alkali Metal Nitrate Electrode
Patent Application 385,206—Characterization of In Situ Oil Shale Retorts Prior to Ignition
Patent Application 385,993—Diffraction Crystal for Sagittally Focusing X-Rays
Patent Application 386,370—Low Voltage Gas Discharge Device
Patent Application 386,371—Apparatus and Method for Quantitative Measurement of Small Differences in Optical Absorptivity Between Two Samples Using Differential Interferometry and the Thermooptic Effect
Patent Application 386,372—Apparatus and Method for Measurement of Weak Optical Absorptions by Thermally Induced Laser Pulsing
Patent Application 387,060—Optical Harmonic Generator
Patent Application 387,063—Method of Dispensing Droplets to Penetration-Resistive Mediums
Patent Application 387,113—Passive Heat Transfer Means for Nuclear Reactors
Patent Application 387,114—All Metal Valve Structure for Gas Systems
Patent Application 387,115—Process for Producing Silicon
Patent Application 388,872—Method for Producing Hydrogen and Oxygen by Use of Algae
Patent Application 388,873—Surface Modification to Wave-Guides
Patent Application 388,874—Absorption Heat Pump System
Patent Application 388,875—Absorption Heat Pump System
Patent Application 389,343—Regenerative Gas Turbine with Thermal Energy Conservation
Patent Application 389,802—Method of Producing Novel Silicon Carbide Articles
Patent Application 390,731—High Efficiency Photovoltaic Cells
Patent Application 392,498—Technique for Controlling Shrinkage Distortion in Cold Pressed Annular Pellets
Patent Application 393,230—Process for Recovering Uranium from Waste Hydrocarbon Oils Containing the Same
Patent Application 393,251—Resonantly Enhanced Method for Generation of Tunable, Coherent Vacuum Ultraviolet Radiation
Patent Application 393,286—Digital Computer Operation of a Nuclear Reactor
Patent Application 393,287—Radiation-Hard Electrical Coil and Method for Its Fabrication
Patent Application 315,380—Method and Apparatus for Corrugating Strips
Patent Application 394,071—Fuel Cell Design and Assembly
Patent Application 394,558—Stepping Motor Controller
Patent Application 394,559—Induction Plasma Tube
Patent Application 394,560—Apparatus for Contacting Particulate Material with Processing Fluid
Patent Application 395,871—Increase of Bulk Optical Damage Threshold Fluences of KDP Crystals by Laser Irradiation and Heat Treatment
Patent Application 395,872—Corrosion Resistant Positive Electrode for High-Temperature Secondary Electro-Chemical Cell
Patent Application 395,893—Apparatus and Method for Quantitatively Evaluating Total Fissile and Total Fertile Nuclide Content in Samples
Patent Application 395,894—Desulfurization Sorbent Regeneration
Patent Application 395,895—High-Temperature Sorbent Method for Removal of Sulfur Containing Gases from Gaseous Mixtures
Patent Application 396,191—Manifold Tool Guide
Patent Application 396,192—Method for Incorporating Radioactive Phosphoric Acid Solutions in Concrete
Patent Application 396,556—Superconducting Magnetic Shielding Apparatus and Method
Patent Application 397,736—High Voltage Variable Diameter Insulator
Patent Application 398,508—Alkene Epoxidation Employing Metal Nitro Complexes
Patent Application 399,934—System for Handling and Storing Radioactive Waste
Patent Application 399,946—Method and Apparatus and Synthesizing Anhydrous HNO_3
Patent Application 399,948—Method and Synthesizing HMX and N_2O_5
Patent Application 399,950—Self-Regulating Valve
Patent Application 400,168—PH_3 Treatment for Polymer Stabilization
Patent Application 400,544—System for Automatically Aligning a Support Roller System Under a Rotating Body
Patent Application 400,545—Imaging Radiation Detector with Gain

Patent Application 401,285—Orbital Inside Diameter Welder
Patent Application 403,161—Route Profile Analysis System and Method
Patent Application 403,220—Horizontal Cryogenic Busing for the Termination of a Superconducting Power Transmission Line
Patent Application 403,278—Method and Apparatus for Determining Peak Temperature Along an Optical Fiber
Patent Application 405,963—A Negative Ion Source
Patent Application 406,827—Conformable Seal
Patent Application 406,828—Method and Apparatus for Storing Hydrogen Isotopes
Patent Application 406,829—Composition and Method for Brazing Graphite to Graphite
Patent Application 406,830—Method for Early Detection of Infectious Mononucleosis
Patent Application 407,538—Micro-Column Plasma Liquid Chromatograph
Patent Application 407,539—Solar-Powered Turocompressor Heat Pump System
Patent Application 407,663—Seal System with Integral Detector
Patent Application 407,664—Delayed Cure Dismaleimide Resin
Patent Application 408,091—Tamper-Indicating Seal
Patent Application 408,092—Apparatus and Method for Transferring Slurries
Patent Application 408,108—Solid-State Circuit Breaker with Current Limiting Characteristic Using a Super-Conducting Coil
Patent Application 408,998—Electronically Controlled Cable Wrapper
Patent Application 409,689—Continuous Production of Tritium in an Isotope Production Reactor with a Separate Circulation System
Patent Application 409,692—Homogeneous Fast Flux Isotope Production Reactor
Patent Application 409,693—Assemblies with both Target and Fuel Pins in an Isotope Production Reactor
Patent Application 409,694—Vented Target Elements for use in an Isotope Production Reactor
Patent Application 409,695—Reactor Fuel and Target Arrangement for Enhanced Production of Tritium
Patent Application 409,696—Use of Low Temperature Blowers for Recirculation of Hot Gases
Patent Application 409,697—Fuel Pins with Both Target and Fuel Pellets in an Isotope Production Reactor
Patent Application 410,680—Dual Circuit Embossed Sheet Heat Transfer Panel
Patent Application 410,787—Prefire Identification for Pulse Power Systems
Patent Application 411,393—Multi-Lead Heat Sink
Patent Application 411,396—Thin Boron Phosphide Coating as a Corrosion Resistant Layer
Patent Application 412,417—Glass Diffusion Source for Constraining BSF Region of a Solar Cell
Patent Application 413,586—Apparatus for Testing Skin Samples or the Like
Patent Application 413,588—Gas Mixture for Diffuse-Discharge Switch
Patent Application 413,589—Wire Inhomogeneity Detector
Patent Application 413,635—Microchannel Crossflow Fluid Heat Exchanger and Method for its Fabrication
Patent Application 413,636—Method for Refining Contaminated Iridium
Patent Application 413,637—Layered Ultra-Thin Coherent Structures Used as Electrical Resistors Having Low Temperature Coefficient of Resistivity
Patent Application 413,639—Low Pressure Spark Gap Triggered by an Ion Diode
Patent Application 438,126—Stabilized Aqueous Foam Systems Concentrated for Producing a Stabilized Aqueous Foam and Method of Producing Said Foam
Patent Application 452,360—Optically Active Biological Particle Distinguishing Apparatus

[FR Doc. 83-27010 Filed 10-3-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-756-000]

Consumers Power Co.; Filing

September 29, 1983.

The filing Company submits the following:

Take notice that on September 19, 1983, Consumers Power Company (Consumers) tendered for filing two revisions to the annual charge rate for charges due Consumers from Northern Indiana Public Service Company (Northern), under the terms of the Barton Lake-Batavia Interconnection Facilities Agreement (designated Consumers Power Company Electric Rate Schedule FERC No. 44).

Consumers states that Article 1.042 of the Barton Lake-Batavia Interconnection Facilities Agreement states that Northern shall pay to Consumers an annual charge derived by multiplying the capital costs of certain facilities built by Consumers by an annual fixed charge factor. Article 1.043 provides that the annual charge rate may be redetermined from time to time by Consumers. The annual fixed charge factor has been redetermined for the 12-month period beginning May 1983. The net effect of this change is an increase in the monthly fixed charge from $19,010 to $20,773, effective May 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 October 14, 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. 83-27019 Filed 10-03-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-757-000]

Consumers Power Co.; Filing

September 29, 1983.

The filing Company submits the following:

Take notice that that on September 19, 1983, Consumers Power Company (Consumers) tendered for filing two revisions to the annual charge rate for charges due Consumers from Wolverine Power Supply Cooperative, Inc. (Wolverine), under the terms of the Blendon Interconnection Facilities Agreement (designated Supplement No. 3 to Consumers Power Company Electric Rate Schedule FERC No. 53).

Consumers states that Subsection 2.4 of the Blendon Interconnection Facilities Agreement provides for an annual redetermination of the annual charge rate to be charged by Consumers under the Blendon Interconnection Facilities Agreement and that, according to Subsection 2.4, the redetermination is to be made as of January 1 of each year, effective on the following May 1.

Consumers states that this increase reflects an increase in the embedded cost of debt and preferred and preference stock.

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 protest should be filed on or before October 14, 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. 83-27820 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-758-00]

Florida Power & Light Co.; Filing

September 29, 1983.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on September 20, 1983, tendered for filing a document entitled Amendment Number Four to Agreement to Provide Specified Transmission Service Between FPL and City of Kissimmee (Rate Schedule FERC No. 65).

FPL states that under Amendment Number Four, FPL will transmit power and energy for the City of Kissimmee as is required in the implementation of its interchange agreement with Utilities Commission, City of Smyrna Beach.

FPL requests that waiver of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately.

Copies of this filing were served on the Electric Utilities Director, City of Kissimmee.

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 protest should be filed on or before October 14, 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. 83-27021 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-759-000]

Florida Power & Light Co. Filing

September 29, 1983.

The filing Company submits the following:

Take notice that on September 20, 1983, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number Two Agreement to Provide Specified Transmission Service Between FPL and City of Lakeland (Rate Schedule FERC No. 46).

FPL states that under Amendment Number Two, FLP will transmit power and energy for the City of Lakeland as is required in the implementation of its interchange agreement with the city of Homestead.

FPL requests that waiver of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately.

Copies of this filing were served on the City of Lakeland's Department of Electric and Water Utilities.

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 Procedures (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before October 14, 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. 83-27022 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. IR000-799; et al.[1]]

Town of Fremont, et al.; Requests for Waiver

September 29, 1983.

Notice is hereby given that the nonregulated utilities identified in the attached listing have filed pursuant to § 292.403(a) of the Commission's regulations for waiver of certain requirements established by the Commission under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). These entities seek a waiver of the requirement that they implement certain provisions of §§ 292.301 and 292.303-292.308 of the Commission's regulations. (18 CFR Part 292, Subpart C).

Each of the nonregulated electric utilities has provided public notice in its service area and held hearings to solicit public comment regarding its obligations under the Commission's regulations. The applicants have indicated that these hearings demonstrated a lack of potential for development of cogeneration and small power production facilities within their respective service territories. The applicants, therefore, believe that implementation of regulations on a generic basis will not encourage the development of cogeneration and small power production facilities to any greater degree than implementation of the Commission's regulations on a case-by-case basis if, and when, proponents of such facilities approach the utility.

Each utility has requested a waiver from any of the Commission's regulations under 18 CFR Part 292, Subpart C which would require the development of standard rates or a generic implementation plan. Each utility, however, has adopted a resolution indicating its intent to implement the Commission's regulations on a case-by-case basis.

Any person desiring to be heard or to protest any of the above filings 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 within thirty (30) days of publication of notice in the **Federal Register**, and should reference the applicable docket number or numbers. 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 these filings are on file with the Commission are available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix A

Utilities Filing for Waiver

Town of Fremont, Fremont, California—IR 000-799

Clayton Municipal Light and Power, 314 Main Street, Clayton, Delaware 19938—IR 000-1238

The Board of Water and Light Commissioners, New Castle, Delaware 19720—IR 000-1329

Middleton Municipal Light and Water Department, 216 North Broad Street,

[1] The other dockets being noticed are attached as Appendix A.

Middletown, Delaware 19709—IR 000–1242
Smyrna Electric Department, 27 South Market Street, Smyrna, Delaware 19977—IR 000–1231
Bushnell Utility Department, P.O. Box 115, Bushnell, Florida 33513—IR 000–833
Detroit Public Lighting Department, 9449 Grinnell Avenue, Detroit, Michigan 48213—IR 000–1191
Apex Lighting Department, P.O. Box 250, Apex, North Carolina 27502—IR 000–192
Ayden Electric Department, P.O. Box 247, Ayden, North Carolina 28543—IR 000–1081
Belhaven Electric Department, Belhaven, North Carolina 27810—IR 000–475
Benson Electric Department, P.O. Box 157, Benson, North Carolina 27504—IR 000–153
Concord Board of Light and Water, P.O. Box 567, Concord, North Carolina 28025—IR 000–346
Cornelius Municipal Electric Light System, P.O. Box 66, Cornelius, North Carolina 28031—IR 000–236
Drexel Electric System, P.O. Box 188, Drexel, North Carolina 28619—IR 000–482
Farmville Water and Light Department, P.O. Box 87, 124 N. Main St., Farmville, North Carolina 27828—IR 000–144
Fayetteville Public Works Commission, 508 Person Street, P.O. Box 1089, Fayetteville, North Carolina 28302—IR 000–1004
Forest City Electric Department, 12 Powell Street, Forest City, North Carolina 28043—IR 000–171
Fountain Electric Department, P.O. Box 134, Fountain, North Carolina 27829—IR 000–218
Gastonia Water and Light Department, P.O. Box 1748, Gastonia, North Carolina 28052—IR 000–217
Greenville Utilities, P.O. Box 1847, Greenville, North Carolina 27834—IR 000–110
Town of Hamilton, P.O. Box 238, Hamilton, North Carolina 27840—IR 000–1325
HIgh Point Electric Utilities Department, 211 South Hamilton, P.O. Box 230, High Point, North Carolina 27261—IR 000–356
Kinston Electric Department, 207 E. King Street, P.O. Box 339, Kinston, North Carolina 28501—IR 000–229
Landis Light and Power Department, 136 North Central Avenue, Landis, North Carolina 28088—IR 000–371
Lexington Department of Utilities, P.O. Box 649, Lexington, North Carolina 27292—IR 000–250
Louisburg Light and Water Department, 110 W. Nash Street, Louisburg, North Carolina 27549—IR 000–481
Lucama Electric Department, P.O. Box 127, Lucama, North Carolina 27851—IR 000–151
Morganton Electric Department, 201 W. Meeting Street, Morganton, North Carolina 28655—IR 000–120
New Bern Municipal Electric System, P.O. Box 1129, New Bern, North Carolina 28560—IR 000–570
Newton Electric Department, 202 North College Avenue, Dr. 550, Newton, North Carolina 28658—IR 000–347
Pinetops, Town of Pinetops, North Carolina 27864—IR 000–1157
Pineville Electric Company, 200 Dover Street, Pineville, North Carolina 28134—IR 000–190
Red Springs Municipal Water and Light Dept., 217 South Main Street, Red Springs, North Carolina 28377—IR 000–096
Rocky Mount Public Utilities, 131 N. E. Main Street, Rocky Mount, North Carolina 27801—IR 000–727
Scotland Neck Light and water Department, P.O. Box 537, Scotland Neck, North Carolina 27874—IR 000–198
Selma Municipal Light and Power System, P.O. Box 357, Selma, North Carolina 27576—IR 000–081
Shelby Utilities Department, City Hall, P.O. Box 207, Shelby, North Carolina 28150—IR 000–474
Statesville Light Department, 227 South Center Street, Statesville, North Carolina 28677—IR 000–357
Tarboro Municipal Light and Power System, 600 Hendrick Street, P.O. Box 220, Tarboro, North Carolina 27886—IR 000–073
Washington Electric Utility, P.O. Box 850, Washington, North Carolina 27889—IR 000–300
Waynesville Municipal Electric Department, Waynesville, North Carolina 28786—IR 000–210
Wilson Utilities Department, 112 North Goldsboro Street, Wilson, North Carolina 27893—IR 000–704
Windsor Electric Light and Power Company, Box 508, Windsor, North Carolina 27983—IR 000–1304
Winterville Electric Department, P.O. Box 431, Winterville, North Carolina 28590—IR 000–074
Cuyahoga Falls Electric System, 2550 Bailey Road, Cuyahoga Falls, Ohio 44221—IR 000–1299
Abbeville Water and Electric Plant, 310 Cabridge Street, P.O. Box 639, Abbeville, South Carolina 29620—IR 000–976
Laurens Commissioners of Public Works, 214½ W. Laurens Street, Box 349, Laurens, South Carolina 29360—IR 000–1013
Union Utility Department, P.O. Drawer K, Union, South Carolina 29379—IR 000–1030
Blackstone Light and Power, 100 W. Elm, blackstone, Virginia 23824—IR 000–879
Culpeper Municipal Light and Power Dept., 118 West Davis Street, Culpeper, Virginia 22701—IR 000–306
Franklin Municipal Light Department, 500 Mechanic Street, Franklin, Virginia 23851—IR 000–242
Manassas Municipal Power Department, 9027 Center street, P.O. Box 512, Manassas, Virginia 22110—IR 000–205
Department of water Resources, State of California, P.O. Box 388, Sacremento, CA 95802—IR 000–980
Pacific Northwest Generating Company, 8383 N.E. Sandy Blvd., Suite 330, Portland, OR 97220—IR 000–370

[FR Doc. 83–27026 Filed 10–3–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ID–2072–000]

John W. Langdale; Application

September 29, 1983.

The filing individual submits the following:

Take notice that on September 16, 1983, John W. Langdale filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Honorary Director, Georgia Power Company
President and Director, The Langdale Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 20, 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 proceedings. 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. 83–27023 Filed 10–3–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP82-250-004]

Northwest Pipeline Corp.; Petition To Amend

September 29, 1983.

Take notice that on September 2, 1983, Northwest Pipeline Corporfation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-250-004 a petition to amend further the order issued September 30, 1982, in Docket No. CP82-250-000 pursuant to Section 7(c) of the Natural Gas Act for approval of certain limitations to the scope of the transportation service authorized to be provided for the account of Beker Industries Corp. (Beker), all as more fully set forth in the petition to amend which is on file with the Commision and open to public inspection.

Northwest states that on September 30, 1982, it was authorized to transport up to 10,000 Mcf of natural gas per day for the account of Beker on a best-efforts basis from various receipt points in the San Juan Basin area in New Mexico to Beker's ammonia plant in Conda, Idaho. The authorization was amended on May 13, 1983, to provide for an alternate transportation receipt point on Northwest's mainline at Starr Road, Washington, it is explained.

Northwest proposes herein to limit the transportation service authorized by the orders of September 30, 1982, and May 13, 1983, to volumes of up to 2 billion Btu of gas per day. Northwest also proposes to delete the gathering receipt points in the San Juan Basin thus limiting the transportation service to volumes received at Northwest's mainline receipt points located near Ignacio, Colorado and at Starr Road, Washington.

It is asserted that the limitations to the previously authorized transportation service are consistent with the current availability of gas supplies purchased by Beker for transportation.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 20, 1983, file with Federal Energy Regulatory Commission, Washington, D.C. 20426, motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27024 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-760-000]

Tampa Electric Co.; Filing

September 29, 1983.

The filing Company submits the following:

Take notice that on September 21, 1983, Tampa Electric Company (Tampa Electric) tendered for filing an Agreement to Provide Specified Transmission Service between Tampa Electric and Orlando Utilities Commission (Orlando).

Tampa Electric States that the Agreement provides for the transmission of electric power by Tampa Electric from points of interconnection with the City of Lakeland, Florida, to points of interconnection with either Florida Power Corporation or Florida Power & Light Company, for ultimate delivery to Orlando. The transmission service is intended to facilitate delivery of electric power from the City of Lakeland's McIntosh Unit No. 3 to which Orlando is entitled, by virtue of its ownership interest in that unit. The service is a back-up for delivery via he direct interconnection between the City of Lakeland and Orlando.

Tampa Electric proposes an effective date of September 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been seved on Orlando and the Florida 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 October 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. 83-27025 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RI83-9-000]

Natural Gas Policy Act; Notice of Petition To Reopen, Reconsider and Rescind Opinion No. 699-D

September 29, 1983.

Just and Reasonable National Rates For Sales Of Natural Gas From Wells Commenced On Or After January 1, 1973, And New Dedications of Natural Gas To Interstate Commerce On Or After January 1, 1973

On August 22, 1983, Northern Natural Gas Company, Division of Internorth, Inc., (Northern) filed a petition pursuant to Section 1(b) of the Natural Gas Act, (15 U.S.C. 717o) and Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207), requesting that the Commission reopen the record in Docket No. R-389-B and reconsider and rescind its Opinion No. 699-D entered therein. Opinion No. 699-D was issued by the Federal Energy Regulatory Commission's (FERC) predecessor—the Federal Power Commission. More specifically Northern in its petition requests (1) that the Commission issue an order reopening proceeding in Docket No. R-389-B; (2) that a hearing be convened so that Northern and other interested parties may introduce evidence relative to the operation of the Kansas *ad valorem* tax; (3) that after the conclusion of the hearing the Commission issue an order stating that the Kansas *ad valorem* tax is not a State "production, severance, or similar tax" within the meaning of Ordering Paragraph (A) of Opinion No. 699 (18 CFR 2.56a(b)), Opinion No. 749 and 770, and Section 110 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301, *et seq.*); and (4) that Northern is no longer required to reimburse Kansas sellers of gas for said *ad valorem* tax.

Northern is the operating division of Internorth Inc. Internorth is a natural gas company and holds certificates of public convenience and necessity issued by the Federal Power Commission.

Northern states that Opinion No. 699-D was issued in response to a request for clarification from the State Corporation Commission of the State of Kansas concerning the rights of producers to adjust upward the national rate prescribed in Opinion No. 699 by the amount of the Kansas *ad valorem*

tax. Northern asserts further that in Opinion No. 699-D the Commission determined that the Kansas *ad valorem* tax was a tax similar to a severance or production tax. Northern avers that it has reimbursed Kansas producers $28,022,637 for *ad valorem* taxes paid by such producers to the state under Opinion Nos. 699, 749, and 770, and Section 110 of the Natural Gas Policy Act of 1978 during the period from 1974 to 1982. Moreover, Northern states that in 1983 Kansas enacted a severance tax payable on all natural gas produced in the state. Also Northern states that the severance tax is levied at the rate of 8% of the volume of produced gas, with a credit of 1% being given to those tax payers paying *ad valorem* tax on gas properties. Northern estimates that it will reimburse Kansas producers approximately $10,000,000 annually in severance taxes.

Northern asserts that, based on another Commission case, Kansas case law, and Kansas statutory law, the Kansas *ad valorem* tax should be determined to be a property tax rather than a production, severance or similar tax.

Any person desiring to be heard to make protest with reference to said petition should on or before October 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27027 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5553-001, et al.]

Hydroelectric Applications (Pennsylvania Department of Environmental Resources, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: 5 MW Exemption.

b. Project No: 5553-001.

c. Date Filed: August 1, 1983.

d. Applicant: Pennsylvania Department of Environmental Resources.

e. Name of Project: Pymatuning Dam Project.

f. Location: On the Shenango River and Pymatuning Lake in Crawford County, Pennsylvania and Ashtabula County, Ohio.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. §§ 2705 and 2708 as amended).

h. Contact Person: R. Timothy Weston, Associate Deputy Secretary, Pennsylvania Department of Environmental Resources, Evangelical Press Building, P.O. 1467, Harrisburg, Pennsylvania 17120.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing earth dam 50 feet high and 1,500 feet long; (2) a reservoir having a surface area of 14,528 acres with a storage capacity of 217,000 acre-feet at a normal water surface elevation of 1,010 feet m.s.l.; (3) a new intake structure; (4) an existing 6-foot by 8-foot rectangular concrete box conduit 250 feet long; (5) a new powerhouse containing 3 generating units having a total generating capacity of 531 kW; (6) an existing tailrace 900 feet long; (7) a new 12.47-kV transmission line 1,200 feet long; (8) an existing access road; and (9) appurtenant facilities. The Applicant estimates the average annual generation would be 3,450,000 kWh. All project power would be sold to a local utility. This exemption was filed during the term of Applicant's preliminary permit for Project No. 5553-000.

k. Purpose of Project: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

2a. Type of Application: License (5MW or less).

b. Project No: 3351-002.

c. Date Filed: July 27, 1983.

d. Applicant: Sonoma County Water Agency.

e. Name of Project: Warm Springs Hydroelectric Project.

f. Location: On Dry Creek, tributary of the Russian River, at the Corps of Engineers' Warm Springs Dam, near the town of Geyserville, in Sonoma County California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Robert F. Beach, General Manager, Sonoma County Water Agency, P.O. Box 11505, Santa Rosa, California 95406.

i. Comment Date: December 5, 1983.

j. Description of Project: The proposed project would utilize the outlet works at the existing Corps of Engineers' Warm Springs Dam. Items to be constructed include: (1) A single generating unit rated at 3.0 MW, (2) on-site power distribution system, and (3) reconductoring 6.5 miles of existing 12-kV transmission line to the Geyserville Substation. The average annual energy production is estimated at 18,210,000 kWh. The Applicant estimates the construction cost of the project at $5,518,000.

k. Purpose of Project: The power will be used by the Applicant or sold to Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A4, B, C & D1.

3a. Type of Application: Exemption from Licensing (5 MW or Less).

b. Project No: 5422-001.

c. Date Filed: April 18, 1983.

d. Applicant: Blind Canyon Aquaranch, Inc.

e. Name of Project: Ten Springs Power Wells.

f. Location: On an outlet of the Snake River Plain Aquifer, near Hagerman, in Gooding County, Idaho.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Mr. George H. Lemmon, Blind Canyon Aquaranch Inc., Rt. #1, Box 218, Hagerman, Idaho 83332.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would utilize return flows from the Ten Springs Fish Hatchery and would consist of: (1) A 6-foot-high, 8-foot-long concrete diversion structure at elevation 284 feet; (2) a 135-foot-long, 30-inch-diameter penstock; (3) a powerhouse containing two generating units having a total installed capacity of 220 kW; and (4) a 400-foot-long, 12-kV transmission line connecting to an existing Idaho Power Company transmission line. The Applicant estimates the average annual energy production at 1.96 million kWh.

k. Purpose of Project: Project Power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3a.

4a. Type of Application: Preliminary Permit.

b. Project No: 7557–000.

c. Date Filed: August 25, 1983.

d. Applicant: Wyoming Hydro Associates.

e. Name of Project: Meeks Cabin Dam Hydro Project.

f. Location: On the Blacks Fork River in Unita County, Wyoming.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: William S. Fowler, Mitex, Inc., 91 Newbury Street, 3rd Floor, Boston, Massachusetts 02116.

i. Comment Date: December 5, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation Dam and Reservoir, and would consist of: (1) A new penstock; (2) a proposed powerhouse with a total installed capacity of 1000 kW; (3) a new tailrace; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 3 GWh. All power generated would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. *Proposed Scope of Studies under Permit*—Applicant has requested a 24-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $60,000.

m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

5a. Type of Application: Preliminary Permit.

b. Project No: 7430–000.

c. Date Filed: July 7, 1983.

d. Applicant: Bellows-Tower Hydro, Inc.

e. Name of Project: St. Regis Falls Water Power.

f. Location: On the St. Regis River, in Franklin County, in the town of Waverly, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Howard R. Doud, 500 Golfview Drive, Saginaw, Michigan 48603.

i. Comment Date: December 5, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing natural waterfall and rapids; (2) a proposed new intake, with a bar rack and control gate; (3) 250 feet of 48-inch penstock to be installed around the falls extending to the powerhouse (approximately 100 feet of the penstock will be buried); (4) a proposed 14-foot by 20-foot powerhouse to be located on the north bank of the river upon foundations of the old powerhouse. The powerhouse will contain one turbine-generaing unit with an installed capacity of 420 kW; (5) the discharge from the powerhouse will be through 10 feet of penstock back into the river; (6) a proposed 4.2–kV transmission line approximately 300 feet in length with associated transformers and switchgear; and (7) appurtenant facilities. Applicant estimates that the average annual energy generation would be 2,760,000 kWh. The St. Regis Falls is owned by the Town of Waverly, New York.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under permit would be $15,000.

6a. Type of Application: Preliminary Permit.

b. Project No: 7383–000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development and Carlson Hydroelectric Corporation.

e. Name of Project: Allison Creek Water Power Project.

f. Location: On Allison Creek, within Nez Perce National Forest, near Riggins, Idaho County, Idaho.

g. FIled Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Biose, Idaho 83702.

i. Comment Date: December 9, 1983.

j. Description of Project: The project would consist of: (1) Two 2-foot-high diversion structures at elevations 2,880 and 2,498 feet; (2) a fish-screen; (3) a 18,000-foot-long, 26-inch-diameter penstock;' (4) a powerhouse containing one generating unit with an installed capacity of 2,994 kW; and (5) a 0.5-mile-long, 34.5–kV transmission line. The Applicant estimates that the average annual energy production would be 7.44 million kWh.

A preliminary permit, is issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $24,000.

k. Purpose of Project: Project power would be sold to Idaho Powser Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

7a. Type of Application: Preliminary Permit.

b. Project No: 7377–000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development and Hat Creek Corporation.

e. Name of Project: Upper Hat Creek Water Power Project.

f. Location: On Hat Creek, within lands administered by BLM, near Riggins, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 9, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 5,200 feet; (2) a fish-screen; (3) a 12,000-foot-long, 20-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 3,491 kW; and (5) a 2-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 7.41 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The

Applicant estimates that the cost of undertaking these studies would be $17,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

8a. Type of Application: Preliminary Permit.

b. Project No: 7378–000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development and Carlson Hydroelectric Corporation.

e. Name of Project: Elkhorn Creek Hydropower Project.

f. Location: On Elkhorn Creek, within Nez Perce National Forest and lands administered by BLM, near Riggins, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 9, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 3,400 feet; (2) a fish-screen; (3) a 10,000-foot-long, 34-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 5,000 kW; and (5) a 2-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 12.47 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $31,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

9a. Type of Application: Preliminary Permit.

b. Project No.: 7429–000.

c. Date Filed: July 6, 1983.

d. Applicant: China-Cow Hydro Co., Close Quarters Inc., Double O Hydro Co., Diamond T Hydro Co.

e. Name of Project: Cow Creek Hydropower Project.

f. Location: Cow Creek, tributary of Salmon River, near the town of Riggins in Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, P.E., 750 Warm Springs Ave., Boise, Idaho 8370 (208) 336–1016.

i. Comment Date: December 2, 1983.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high check dam; (2) a 14,000-foot-long buried 20-inch-diameter pipeline and penstock; (3) a powerhouse with one generating unit with an installed capacity of 1857 kW; (4) a tailrace to discharge water back into Cow Creek and (5) two miles of transmission line. The Applicant estimates the average annual energy output at 5,130,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering, environmental, and feasibility studies and prepare an FERC license application at a cost of $13,000. No new roads would be required to conduct the studies, no subsurface exploration will be required at the diversion site, and no disturbance of the land, water or habitat will occur.

k. Purpose of Project: Project power would be sold to local Idaho Electric Systems.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

10a. Type of Application: Preliminary Permit.

b. Project No.: 7536–000.

c. Date Filed: August 18, 1983.

d. Applicant: Trans Mountain Hydro Corp.

e. Name of Project: Chihuahua Creek.

f. Location: On Chihuahua Creek in Summit County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Herbert C. Young, 123 S. Paradise Road, Golden, Colorado 80401.

i. Comment Date: December 5, 1983.

j. Description of Project: The proposed project would utilize land managed by the U.S. Forest Service, and would consist of: (1) A proposed 4-foot-high diversion structure; (2) a proposed 2,000-foot-long penstock; (3) a new powerhouse containing a single generating unit having a rated capacity of 394 kW; (4) a new 2-mile-long, 14.4 kV, transmission line; and (5) appurtenant facilities. The Applicant estimated that the average annual energy output would be 1,630,480 kWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Public Service Company of Colorado.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit.*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $80,000.

n. *Purpose of Preliminary Permit.*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in application for a license.

11a. Type of Application: License (Over 5 MW).

b. Project No: 3671–001.

c. Date Filed: August 1, 1983.

d. Applicant: The Borough of Central City and Mitex, Inc.

e. Name of Project: Lock and Dam No. 5.

f. Location: On the Allegheny River in Armstrong County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Bruce J. Wrobel, Mitex, Inc., 91 Newbury Street, Boston, Massachusetts 02118; and Sat Khanna, CE Maguire, Inc., One Davol Square, Providence, Rhode Island 02903.

i. Comment Date: December 1, 1983.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Lock and Dam No. 5, and would consist of: (1) The replacement of a 150-foot-long dam and spillway section adjacent to the eastern abutment, for a submerged reinforced concrete powerhouse; (2) three 5,000-kw turbine-generator units; (3) a 4.5-mile-long transmission line; and (4) other appurtenances. The Applicants estimate and average annual generation of 67,800,000 kWh. This application was filed during the term of the Applicants' preliminary permit for Project No. 3671.

k. Purpose of Project: Project energy would be sold to Allegheny Power System.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

12a. Type of Application: Minor License.

b. Project No: 5679–001.

c. Date Filed: February 16, 1983.

d. Applicant: The Metals Selling Corporation.

e. Name of Project: M.S.C. Power Project.

f. Location: On the Quinebaug River in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Duncan S. Broatch, P.O. Box 471, Putnam, Connecticut 06260.

i. Comment Date: December 1, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 93-foot-long and 13-foot-high concrete dam with 2-foot-high flashboards, owned by the Applicant; (2) a reservoir with negligible storage capacity; (3) existing intake structures at the western abutment; (4) a small flume; (5) a new powerhouse with an installed capacity of 450 kW; (6) an existing tailrace; (7) an existing 480-volt transmission line; and (8) other appurtenances. Applicant estimates an average annual generation of 2,200,000 kWh. This application was filed during the term of the Applicant's preliminary permit for Project No. 5679.

k. Purpose of Project: Project energy would be sold to Northeast Utilities.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

13a. Type of Application: Small Conduit Exemption.

b. Project No: 7313–000.

c. Date Filed: May 25, 1983.

d. Applicant: Charlotte B. Zilm and William M. Zilm.

e. Name of Project: Zilm Project.

f. Location: At Mr. and Mrs. Zilm's Farm, drawing water from the Four-Mile Stream, in Garfield County, Colorado.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Charlotte B. Zilm and William M. Zilm, 923 Cooper Avenue, Glenwood Springs, Colorado 81601.

i. Comment Date: December 2, 1983.

j. Description of Project: The proposed project would utilize and existing small conduit which discharges water into a small pond for piscatorial, stock watering and irrigation purposes and would consist of: (1) A powerhouse; (2) a turbine-generator unit with an installed capacity of 18 kW; and (3) other appurtenances. Applicants own all existing and proposed facilities; they estimate an average annual generation of 80,000 kWh.

k. Purpose of Project: Project Energy would be utilized for residential and farm use, and the surplus, if any, sold to Glenwood Springs Electric.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

14a. Type of Application: Exemption from Licensing (Conduit).

b. Project No: 4728–002.

c. Date Filed: August 11, 1983.

d. Applicant: Marin Municipal Water District.

e. Name of Project: Kent Lake.

f. Location: Marin County, California, Kent Lake.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Richard W. Rogers, General Manager, Marin Municipal Water District, 220 Nellen Avenue, Corte Madera, California 94925.

i. Comment Date: December 5, 1983.

j. Description of Project: The proposed project would consist of an 80-kW turbine-generator and a 160-kW turbine-generator installed in the existing water supply conduit at Kent Lake.

k. Purpose of Project: The Applicant proposes to sell the estimated 0.495 million kWh produced annually by the proposed project to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

15a. Type of Application: Preliminary Permit.

b. Project No: 7386–000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development and Magnum Ranch, Inc.

e. Name of Project: North Fork Skookumchuck Creek Hydropower Project.

f. Location: On North Fork Skookumchuck Creek, near White Bird, in Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 9, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 3,260 feet; (2) a fish-screen; (3) an 18,000-foot-long, 30-inch-diameter penstock; (4) a powerhouse containing on generating unit with an installed capacity of 4,278 kW; and (5) a 3-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 7.4 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $25,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

16a. Type of Application: Application for License (under 5MW).

b. Project No: 7484–000.

c. Date Filed: August 1, 1983.

d. Applicant: Willow River Hydro Associates.

e. Name of Project: Little Falls.

f. Location: Willow River in St. Croix County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Wayne L. Rogers, Synergics, Inc., 410 Severn Ave., Suite 409, Annapolis, MD 21401.

i. Comment Date: December 5, 1983.

j. Description of Project: The proposed project would be operated run-of-river and would consist of: (1) An existing reinforced concrete dam, approximately 30 feet high and 311 feet long; (2) a reservoir having a surface area of 185 acres and a storage capacity of 1,342 acre-feet; (3) an existing powerhouse to be equipped with 3 turbine-generator units rated at 90 kw each for a total rated capacity of 270 kw; (4) a tailrace returning flow to the river immediately downstream of the dam; (5) a new underground 12.5 kv transmission line, 1.7 miles long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,460,000 Kwh.

k. Purpose of Project: Project energy would be sold to the Northern States Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D2.

17a. Type of Application: Preliminary Permit.

b. Project No: 7568–000.

c. Date Filed: September 1, 1983.

d. Applicant: Allegheny County, Pennsylvania.

e. Name of Project: Dashields Locks and Dam.

f. Location: On the Ohio River in Allegheny County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James W. Knox, Director, Allegheny County Department of Planning, 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219.

i. Comment Date: December 5, 1983.

j. Description of Project: The proposed project would utilize the existing Army Corps of Engineers' Dashields Locks and Dam and would consist of: (1) A new powerhouse with an installed capacity of 30 MW; (2) a new 2-mile-long transmission line; and (3) appurtenant facilities. The Applicant estimates an average annual generation of 105,000 MWh.

k. Purpose of Project: The Applicant plans to market the power output to the Duquesne Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $50,000.

n. Purpose of Preliminary Permit: A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

18a. Type of Application: Exemption (5MW or Less).

b. Project No: 7452-000.

c. Date Filed: July 18, 1983.

d. Applicant: Resources I, Inc.

e. Name of Project: Clear Creek.

f. Location: On Clear Creek in Baker County, Oregon, within Wallowa-Whitman National Forest, near the town of Halfway.

g. Filed Pursuant to: Energy Security Act of 1980 (16 U.S.C. 2705 and 2708).

h. Contact Person: Mr. Jack Crocker, Rt. 1, Box 144, Halfway, Oregon 97834.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would consist of: (1) A 3.5-foot-high, 15-foot-long diversion structure at elevation 4,351 feet; (2) an 18-inch-diameter, 18,000-foot-long buried penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 522 KW, operating under a head of 999 feet; and (6) a 500-foot-long, 12.5-KV transmission line tying into an existing Idaho Power Company line. the estimated average annual energy output would be 4,018,093 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power will be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

19a. Type of Application: Exemption (5 MW or Less).

b. Project No: 7393-000.

c. Date Filed: June 22, 1983.

d. Applicant: Alpine Power Company.

e. Name of Project: Bagley Creek Hydro.

f. Location: On Bagley Creek within Mt. Baker—Snoqualmie National Forest, Whatcom County, Washington.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: William L. Devine, c/o Alpine Power Company, P.O. Box 68, Maple Falls, Washington 98266.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion structure at elevation 2,720 feet; (2) a 36-inch-diameter, 5,200-foot-long penstock; (3) a powerhouse at elevation 2,160 feet containing a generating unit with a rated capacity of 2,500 kW; and (4) an 8-mile-long transmission line west of the powerhouse tying into an existing Puget Sound Power and Light Company line. The average annual energy generation is estimated to be 10,500,000 kWh.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

20a. Type of Application: Transfer and Amendment of License.

b. Project No: 3255-002 and 3255-003.

c. Date Filed: June 6, 1983.

d. Applicants: Burrows Paper Company (Licensee) and Lyonsdale Associates (Transferee).

e. Name of Project: Lyonsdale Project.

f. Location: On the Moose River in Lewis County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: M.S. Altmayer, Secretary-Treasurer, Burrows Paper Corporation, Little Falls, New York 13365.

i. Comment Date: November 14, 1983.

j. Description of Project: Take notice that the Burrows Paper Company, Licensee for the Lyonsdale Project, and the Lyonsdale Associates, both have requested that the Lyonsdale Project license be transferred to the Lyonsdale Associates (Transferee). In addition, both the Licensee and the Transferee have requested an amendment of the license. Lyonsdale Associates is a general partnership of which Burrows Paper Corporation and HYDRA-CO Enterprises, Inc. are equal shareholders.

The license for the Lyonsdale Project, issued on March 22, 1983, authorized an installed generating capacity 2.4 MW. The Applicants propose to increase the plant capacity from 2.4 MW to 3 MW.

The Transferee will accept all the terms and conditions of the license, as amended, should the transfer be approved.

k. Purpose of Project: The Applicants state that "our reason for desiring the transfer of the license to Lyonsdale Associates is to provide a sound basis for the management and financing of the project."

l. This notice also consists of the following standard paragraphs: B and C.

21a. Type of Application: 5 MW Exemption.

b. Project No: 7473-000.

c. Date Filed: July 29, 1983.

d. Applicant: North New Portland Energy Corporation.

e. Name of Project: Gilman Stream.

f. Location: Gilman Stream, near the town of North Portland, Somerset County, Maine.

g. Filed Pursuant to: 16 U.S.C., 2705 and 2708.

h. Contact Person: C. R. Recor, Chairman, North New Portland Energy Corporation, P.O. Box 27, Madison, Maine 04950.

i. Comment Date: November 14, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 228-foot-long, 17-foot-high reinforced concrete dam; (2) a 790-acre reservoir with a normal maximum water surface elevation of 375 feet m.s.l.; (3) an existing 220-foot-long power canal; (4) an existing penstock gate and a 4-foot-diameter, 140-foot-long steel penstock; (5) an existing powerhouse containing a single 7.5 kW turbine generator which will be reworked to a total rated capacity of up to 90 kW; (6) an existing transmission line; and (7) appurtenant facilities. The project would produce up to 672,000 kWh annually. The project is owned by the Applicant..

k. Purpose of Project: Energy produced at the project would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

22a. Type of Application: Minor License.

b. Project No: 7337–000.

c. Date Filed: June 3, 1983.

d. Applicant: Yakima-Tieton Irrigation District (YTID).

e. Name of Project: Cowiche Hydroelectric.

f. Location: On the U.S. Bureau of Reclamation's proposed irrigation system, managed by the YTID, in Yakima County, Washington, near the town of Tieton..

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Warren Dickman, Manager, Yakima-Tieton Irrigation District, Rt. 6 Box 193, Yakima, Washington 98908 and Mr. John Mayo, CH2M Hill, P.O. Box 9249, Yakima, Washington 98909.

i. Comment Date: November 28, 1983.

j. Description of Project: The proposed project would consist of: (1) A powerhouse adjacent to the Summitview-Cowiche Tieton Road, containing a single generating unit with a rated capacity of 1,350 kW, operating under a head of 107.8 feet; (2) a 100-foot-long, 13.2-kV underground transmission line tying into an existing Pacific Power and Light Company line. The estimated annual energy output would be 5,110,000 kWh.

k. Purpose of Project: Project power will be sold to Pacific Power and Light or another utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C,

m. Agency Comments: D1.

23a. Type of Application: Preliminary Permit.

b. Project No: 7526–000.

c. Dated Filed: August 15, 1983.

d. Applicant: Capital Development Company.

e. Name of Project: Pratt River Water Power.

f. Location: On the Pratt River within Snoqualmie National Forest in King County, Washington.

g. Filed Pursuant to: Federal Power Act, [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Robert L. Blume, Capital Development Company, #4 South Sound Center, P.O. Box 3487, Lacey, Washington 98503.

i. Comment Date: December 2, 1983.

j. Description of Project: The proposed project would consist of: (1) A 50-foot-long, 10-foot-high, concrete gravity diversion structure with crest elevation 1920 feet; (2) a 48-inch to 60-inch-diameter, 18,500-foot-long pipeline and a 2,700 foot-long penstock of the same diameter; (3) a powerhouse at elevation 920 feet containing one or two generators with a combined capacity of 20.8 MW and an average annual output of 67 GWh; and (4) an approximately 10-mile-long transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. These studies may require drilling at the diversion and powerhouse sites along the pipeline route, and a total of 3 miles of access roads to these points. Disturbed areas will be restored. the estimated cost of the above activities is $120,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

24a. Type of Application: Exemption (5 MW or Less).

b. Project No: 7437–000.

c. Dated Filed: July 11, 1983.

d. Applicant: Capital Development Company.

e. Name of Project: Brooks Creek Hydro Project.

f. Location: On Brooks Creek, Tributary of North Fork Stillaguamish River, near the town of Oso, in Snohomish County, Washington.

g. Filed Pursuant to: Energy Security Act of 1980, section 408, 16 U.S.C. 2705 and 2708 *as amended*.

h. Contact Person: Robert L. Blume, P.O. Box 3487-#4 South Sound Center, Lacey, Washington 98503.

i. Comment Date: November 10, 1983.

j. Description of Project: The proposed project would consist of: (1) Two 6-foot-high concrete diversion dams, 47 and 38 feet in length; (2) a 36-inch-diameter, 9,630-foot-long steel pipeline and penstock; (3) a powerhouse containing two generating units with a total capacity of 1.92 MW; and (4) a 3,500-foot-long transmission line. The average annual energy production is estimated to be 11,500,000 kWh.

k. Purpose of Project: Power will be sold to local utility companies

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

25a. Type of Application: Exemption (Conduit).

b. Project No.: 7401–000.

c. Date Filed: June 24, 1983.

d. Applicant: Energy Research and Applications, Inc.

e. Name of Project: Turtle Rock/Quail Hill Power Plant.

f. Location: Irvine Ranch Water District's distribution line in Orange County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: John S. Huetter, President, Energy Research and Applications, Inc., 1820 14th Street, Santa Monica, California 90404.

i. Comment Date: November 10, 1983.

j. Description of Project: The proposed project would consist of a powerhouse adjacent to the existing pressure reduction station, containing a 187-kW generating unit. The average annual energy generation is estimated to be 1,416,000 kWh.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

26a. Type of Application: 5 MW Exemption.

b. Project No: 7406–000.

c. Date Filed: June 27, 1983.

d. Applicant: Cook Industries, Inc.

e. Name of Project: Coltrane Mill Hydropower Project.

f. Location: Deep River, Randolph County, North Carolina.

g. Filed Pursuant to: Section 408 of the Energy Sercurity Act of 1980, (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Mr. George S. Cook, General Manager, Cook Industries, Inc., 4701 High Point Road, Greensboro, North Carolina 27407.

i. Comment Date: November 7, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 8-foot-high and 300-foot-long stone gravity dam; (2) an existing reservoir with a surface area of 2 acres and with a storage capacity of 10-acre-feet; (3) an existing 200-foot-long and 15-foot-Wide headrace; (4) an existing 300-foot-long tailrace; (5) two refurbished turbines and the proposed installation of two generators for a total installed capacity of approximately 90 kW; (6) a transmission line less than one mile in length and interconnecting with 7.2 kV single-phase Duke Power Company transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual energy production to be 430,000 kWh.

k. Purpose of Project: The Applicant intendes to sell power generated to the Duke Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project

27a. Type of Application: Major License (Under 5 MW).

b. Project No: 7186–001.

c. Date Filed: August 1, 1983.

d. Applicant: Missisquoi Associates.

e. Name of Project: Sheldón Sprińgs Project.

f. Location: On the Missisquoi River in Franklin County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Amy Koch, Reid & Priest, 1111–19th Street, N.W., Suite 1100, Washington, D.C. 20036, and John Devine, P.E., Manage Hydroelectric Design, E.C. Jordan Co., 562 Congress Street, Portland, Maine 04112.

i. Comment Date: November 28, 1983.

j. Description of Project: The proposed project would consist of: (1) A existing concrete overflow dam 35.5 feet high and 283 feet long; (2) the existing 2-foot-high flashboards; (3) an impoundment having a surface area of 175 acres, a storage capacity of 750 acre-feet and a normal water surface elevation of 328 feet NGVD; and (4) a new intake structure;

Powerhouse #1: (5) an existing 6-foot-diameter steel penstock 470 feet long; (6) an existing powerhouse containing one generating unit with a capacity of 1,000 kW; (7) an existing tailrace 15 feet wide, 4 feet deep, and 50 feet long; (8) an existing transmission line;

Powerhouse #2: (5) an existing 12-foot-diameter steel penstock 140 feet long; (6) an existing powerhouse, 4 generating units; (3 existing, 1 new), having a total capacity of 3,300 kW; (7) an existing tailrace 30 feet wide, 6 feet deep and 100 feet long; (8) an existing transmission line;

Powerhouse #3: (5) a new 13.5-foot-diameter steel penstock 1,900 feet long; (6) a new powerhouse containing 2 generating units having a total capacity of 17,800 kW; (7) a new tailrace 40 feet wide, 20 feet deep and 125 feet long; (8) a new 46-kV transmission line 1,200 feet long;

(9) the existing switchyard; and (10) appurtenant facilities. The Applicant estimates the average annual generation would be 67,500,000 kWh. The Applicant estimates total cost of putting this project in operation would be $40,862,000. All existing project facilities are owned by the Applicant.

k. Purpose of Project: All project power would be sold to Citizens Utilities.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

28a. Type of Application: Preliminary Permit.

b. Project No: 7379–000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development and Slate Creek Resources, Inc.

e. Name of Project: Lower Slate Creek Hydropower Project.

f. Location: On Slate Creek, within Nez Perce National Forest, near White Bird, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 23, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 2,030 feet; (2) a fish-screen; (3) a 18,000-foot-long, 54-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 5,000 kW; and (5) a 2-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 15.54 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $43,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

29a. Type of Application: Preliminary Permit.

b. Project No: 7384–000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development and David E. Cereghino.

e. Name of Project: Upper Slate Creek Water Power Project.

f. Location: On Slate Creek, within Nez Perce National Forest near White Bird, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 23, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 2,560 feet; (2) a fish-screen; (3) a 18,000-foot-long, 50-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 4,400 kW; and (5) a 5-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 14.52 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $24,000.

k. Purposes of Project: Project power would be sold to Idaho Power Company

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

30a. Type of Application: Preliminary Permit.

b. Project No. 7381–000.

c. Date Filed: June 21, 1983.

d. Applicant: Magnum Ranch, Inc.

e. Name of Project: Lower Skookumchuck Creek Hydropower Project.

f. Location: On Skookumchuck Creek, near White Bird, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 23, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 2,100 feet; (2) a fish-screen; (3) a 16,500-foot-long, 20-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 570 kW; and (5) a 1-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 3.43 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The

Applicant estimates that the cost of undertaking these studies would be $9,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

31a. Type of Application: Preliminary Permit.

b. Project No.: 7380-000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development and Carlson Hydroelectric Corp.

e. Name of Project: Patridge Creek Water Power Project.

f. Location: On Patridge Creek, within lands administered by BLM, near Riggins, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 23, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 2,760 feet; (2) a fish-screen; (3) a 15,500-foot-long, 42-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 6,957 kW; and (5) a 1-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 14.24 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $39,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

32a. Type of Application: Preliminary Permit.

b. Project No: 7382-000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development, Upper Lake Creek Corp; Middle Lake Creek Corp. and Lower Lake Creek Corp.

e. Name of Project: Lake Creek Water Power Project.

f. Location: On Lake Creek, within Payette National Forest and lands administered by BLM, near Riggins, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–(825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 23, 1983.

j. Description of Project: The project would consist of: (1) A 2-foot-high diversion structure at elevation 3,080 feet; (2) a fish-screen; (3) a 16,500-foot-long, 30-inch-diameter penstock; (4) a powerhouse containing one generating unit with an installed capacity of 5565 kW; and (5) a 0.5-mile-long, 34.5-kV transmission line. The Applicant estimates that the average annual energy production would be 12.45 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $40,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

33a. Type of Application: Preliminary Permit.

b. Project No.: 7495.

c. Date Filed: August 4, 1983.

d. Applicant: Cook Electric, Inc.

e. Name of Project: Patterson Creek Power Project.

f. Location: On Patterson Creek, tributary of the Pahsimeroi River, near the town of Patterson, in Lemhi County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dale Hatch, Cook Electric Company, Inc., P.O. Box 1071 Twin Falls, Idaho 83301.

i. Comment Date: December 27, 1983.

j. Description of Project: The proposed project would consist of (1) Two 8-foot-high concrete diversion structures both at elevation 6800 feet, one on Patterson Creek and one on the East Fork of Patterson Creek; (2) a 34-inch-diameter, 5,280-foot-long penstock from the Patterson Creek diversion structure to the bifurcation; (3) a 24-inch-diameter, 3,300-foot-long penstock from the east Fork diversion structure to the bifurcation; (4) a 42-inch-diameter, 8,715-foot-long penstock from the bifurcation to the powerhouse; (5) a powerhouse with a single generating unit with a capacity of 3,000 KW; and (6) a 660-foot-long transmission line. The average annual energy production will be 15,000,000 KwH.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering, environmental, and feasibility studies and prepare an FERC license application at a cost of $11,500. No roads would be constructed during the study.

k. Purpose of Project: The project power will be sold to Salmon River Electric Cooperative or Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

34a. Type of Application: Preliminary Permit.

b. Project No: 7558-000.

c. Date Filed: August 25, 1983.

d. Applicant: Tulare Hydro Associates.

e. Name of Project: Terminus Hydro Power.

f. Location: At the existing outlet of the Corps of Engineers' Terminus Dam on Kaweah River in Tulare County, near the Town of Visalia, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: William S. Fowler, Mitex, Inc., 91 Newbury Street, Third Floor, Boston, Massachusetts 02116.

i. Comment Date: December 19, 1983.

j. Description of Project: The proposed project would entail modifications to the existing outlet of the Corps' dam and would consist of: (1) A powerhouse, containing two generating units with a combined rated capacity of 9,600 kW, operating under a design head of 170 feet; (2) a short transmission line connecting the proposed powerhouse with an existing Southern California Edison Company's transmission line east of the project; and (3) appurtenant facilities.

k. Purpose of Project: The estimated 38 million kWh of project energy would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

35a. Type of Application: Preliminary Permit.

b. Project No: 7562-000.

c. Date Filed: August 29, 1983.

d. Applicant: Gale Associates.

e. Name of Project: Tomtit Lake Power Project.

f. Location: On McCoy Creek, tributary of the Skykomish River, near the town of Sultan, in Snohomish County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joel Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: November 28, 1983.

j. Description of Project: The proposed project would consist of: (1) Alteration and reconstruction of an existing 7-foot-high, 70-foot-long concrete gravity arch dam; (2) a 1000-foot-long, 28-inch-diameter low pressure pipe from the dam to a surge tank; (3) a 1000-foot-long, 24-inch-diameter penstock from the surge tank to the powerhouse; (4) a powerhouse containing two generating units with a total installed capacity of 300 kW; (5) a tailrace to discharge water back into McCoy Creek; and (6) 300 feet of transmission line. The estimated annual energy production is 2,000,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering, environmental, and feasibility studies and prepare an FERC license application at a cost of $25,000. No roads would be constructed nor will any destructive testing be conducted during the study.

k. Purpose of Project: Project power will be sold to Puget Power or Snohomish PUD No. 1.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

36a. Type of Application: Preliminary Permit.

b. Project No: 7385-000.

c. Date Filed: June 21, 1983.

d. Applicant: Renewable Resources Development et al.

e. Name of Project: Little Salmon Water Power Project.

f. Location: On Little Salmon River, near Riggins, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, 750 Warm Springs Avenue, Boise, Idaho 83702.

i. Comment Date: December 23, 1983.

j. Description of Project: The project would contain the following five developments with total average annual energy production of 126.6 million kWh. (1) Little Salmon 2 Development would consist of: (a) A 2-foot-high diversion struction at elevation 2830; (b) a 12,500-foot-long, 66-inch-diameter penstock; (c) a powerhouse with an installed capacity of 6830 kW; and (d) a 300-foot-long, 34.5-kV transmission line. (2) Little Salmon 3 development would consist of: (a) a 2-foot-high diversion structure at elevation 2620; (b) a 15,000-foot-long, 66-inch-diameter penstock; (c) a powerhouse with an installed capacity of 6090 kW; and (d) a 500-foot-long, 34.5-kV transmission line. (3) Little Salmon 4 Development would consist of: (a) a 2-foot-high diversion structure at elevation 2420; (b) a 13,500-foot-long, 66-inch-diameter penstock; (c) a powerhouse with an installed capacity of 6960 kW; and (d) a 700-foot-long, 34.5-kV transmission line. (4) Little Salmon 5 Development would consist of: (a) a 2-foot-high diversion structure at elevation 2190; (b) a 12,000-foot-long, 66-inch-diameter penstock; (c) a powerhouse with an installed capacity of 6380 kW; and (d) a 700-foot-long, 34.5-kV transmission line. (5) Little Salmon 6 Development would consists of: (a) a 2-foot-high diversion structure at elevation 1990; (b) a 10,000-foot-long, 66-inch-diameter penstock; (c) a powerhouse with an installed capacity of 3190 kW; and (d) a 400-foot-long, 34.5-kV transmission line.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies. No new road would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $235,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

37a. Type of Application: Exemption (5MW or Less).

b. Project No: 7405-000.

c. Date Filed: June 27, 1983.

d. Applicant: Joanne M. Price.

e. Name of Project: Upper Indian Creek.

f. Location: On Upper Indian Creek in Union County, Oregon.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408 (16 U.S.C. 2705 and 2708 *as amended).*

h. Contact Person: Gari Price, Rt. 1, Box 1437, La Grande, Oregon 97850.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would consist of: (1) A perforated 36-inch-diameter, 300-foot-long intake conduit at elevation 3,365 feet (2) an 18-inch-diameter, 3,000-foot-long penstock; (3) a powerhouse at elevation 3,178 feet containing a generating unit with a rated capacity of 75 kw; and (4) a transmission line connecting to the existing C.P. National line north of the powerhouse. The average annual energy generation is estimated to be 572,073 kWh.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

38a. Type of Application: 5 MW Exemption.

b. Project No.: 7049-001.

c. Date Filed: May 13, 1983.

d. Applicant: Foundry Associates.

e. Name of Project: Broad Street Dam Project.

f. Location: On the Sugar River in Sullivan County, New Hampshire.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Howard M. Moffett, Esq., Orr and Reno, P.A., One Eagle Square, P.O. Box 709, Concord, New Hampshire 03301.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Broad Street Dam, a concrete gravity structure 8 feet high and 110 feet long; (2) a reservoir with negligible storage and surface area and a normal water surface elevation of 516.5 m.s.l.; (3) the existing intake; (4) a new 8-foot-diameter steel penstock 1,800 feet long; (5) a new powerhouse containing two generating units with a total capacity of 1,830 kW; (6) the existing tailrace; (7) a new 46-kV transmission line 450 feet long; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 6,900,000 kWh. All project power would be sold to the Connecticut Valley Electric Company.

k. Purpose of Project: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A2, A9, B, C and D3a.

39a. Type of Application: Surrender of License.

b. Project No.: 2372-003.

c. Date Filed: August 29, 1983.

d. Applicant: Pennsylvania Electric Company.

e. Name of Project: Warrior Ridge Project.

f. Location: On the Juanita River in Huntingdon County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. E. Simmons, Secretary and Treasurer, Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907.

i. Comment Date: November 4, 1983.

j. Description of Project: The project was constructed in 1906 and was

licensed in 1968. In June of 1972, the entire plant was rendered inoperative as a result of the flood brought about by Hurricane Agnes. Subsequent efforts to rehabilitate the damaged generating units were unsuccessful. Demolition of the deteriorated superstructure of the powerhouse and removal of turbine-generator equipment and auxiliaries were completed in February, 1980.

The Licensee intends to maintain the dam and reservoir in accordance with the regulations and requirements of the Pennsylvania Department of Environmental Resources. Licensee proposes no change in either the surface area or in the elevation of the existing impoundment.

k. Purpose of Project: The application for surrender of license was filed in accordance with ordering Paragraph (B) of the Commission's order denying request for extension of time for completion of construction, issued on August 1, 1983.

l. This notice also consists of the following standard paragraphs: B and C

40a. Type of Application: Amendment of License—Revised Exhibit R.

b. Project No. 1984–012.

c. Date Filed: June 30, 1983.

d. Applicant: Wisconsin River Power Company.

e. Name of Project: Castle-Rock—Petenwell Project.

f. Adams, Juneau, and Wood Counties, Wisconsin on the Wisconsin and Yellow Rivers.

g. Filed Pursuant to: Provisions of Article 25 of the License for Project No. 1984.

h. Contact Person: Max O. Andrae, President, Wisconsin River Power Company, P.O. Box 50, Wisconsin Rapids, Wisconsin 54494.

i. Comment Date: November 7, 1983.

j. Description of Project: Wisconsin River Power Company has filed a revised Exhibit R in compliance with Article 25 of the license. The Licensee has prepared a study, pursuant to Article 25, titled, "Report and Recommendations on Boating Safety and Navigation". The Licensee proposed in the report to: (1) draw-down the reservoir and cut-off protruding tree trunks and stumps at the lowered water level; (2) continue periodic removal of floating debris; and (3) mark hazard areas with warning bouys.

k. This notice also consists of the following standard paragraphs: B, C and D1.

41a. Type of Application: Exemption from Licensing (Conduit).

b. Project No: 7423–002.

c. Date Filed: August 8, 1983.

d. Applicant: Marin Municipal Water District.

e. Name of Project: Soulajule Reservoir.

f. Location: Marin County, California, Soulajule Reservoir.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Richard W. Rogers, General Manager, Marin Municipal Water District, 220 Nellen Avenue, Corte Madera, California 94925.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would consist of a 35-kW turbine-generator installed in the existing water supply conduit at Soulajule Reservoir.

k. Purpose of Project: The Applicant proposes to sell the estimated 0.317 million kWh produced annually by the proposed project to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

42a. Type of Application: Minor License.

b. Project No: 7338–000.

c. Date Filed: June 3, 1983.

d. Applicant: Yakima-Tieton Irrigation District (YTID).

e. Name of Project: Orchard Ave. Hydroelectric.

f. Location: On the United States Bureau of Reclamation's proposed irrigation system, managed by the YTID, in Yakima County, Washington, near the town of Tieton.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Warren Dickman, Manager, Yakima—Tieton Irrigation District, Rt. 6 Box 193, Yakima, Washington 98908 and Mr. John Mayo, CH2M Hill, Yakima, Washington 98909.

i. Comment Date: November 25, 1983.

j. Description of Project: The proposed project would consist of: (1) A powerhouse, adjacent to Mize Road, containing two generating units with a combined rate capacity of 1,435 kW; and (2) and 85-foot-long, 13.2-kV underground transmission line tying into an existing Pacific Power and Light Company line. The estimated average annual energy output would be 5,650,000 kWh.

k. Purpose of Project: Project power would be sold to Pacific Power and Light Company or another utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C.

m. Agency Comments: D1.

43a. Type of Application: 5 MW Exemption.

b. Project No: 7464–000.

c. Dated Filed: July 25, 1983.

d. Applicant: Margaret and Alexis Moser.

e. Name of Project: Marden Brook Overshot Waterwheel.

f. Location: Marden Brook, near the town of Lancaster, Coos County, New Hampshire.

g. Filed Pursuant to: 16 U.S.C. 2705 and 2708.

h. Contact Person: Margaret and Alexis Moser, Box 116, RFD #1 North Road, Lancaster, New Hampshire 03584.

i. Comment Date: November 4, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 6-foot-high, 135-foot-long granite and concrete dam; (2) a 42 acre reservior at a normal water surface elevation of 1,155 feet m.s.l.; (3) a new 270-foot-long 2-foot-diameter steel penstock; (4) an existing powerhouse containing one overshot-waterwheel connected to a 1.5-kW generator; (5) a tailrace channel; (6) a 130-foot-long, 240-volt transmission line; and (7) appurtenant facitlies. The project would generate up to 15,000 kWh annually. The project is owned by the Applicant.

k. Purpose of Project: Energy produced at the project would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

44a. Type of Application: New License (Over 5-MW).

b. Project No: 6830–000.

c. Date Filed: December 13, 1982.

d. Applicant: June Lake Public Utility District.

e. Name of Project: Rush Creek.

f. Location: On Rush Creek in the Inyo National Forest, near the town of June Lake, in Mono County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C., 791(a)–825(r).

h. Contact Person: Mr. Steve Frederickson, General Manager, June Lake Public Utility District, P.O. Box 99, June Lake, California 93529.

i. Comment Date: November 14, 1983.

j. Competing Application: Project No. 1389, Date filed December 1, 1981.

k. Description of Project: The existing project consist of: (1) Rush Meadows Reservoir with a surface area of 176 acres and a usable storage capacity of 4800 acre-feet at maximum reservoir elevation 9,410 feet formed by; (2) a 463-foot-long, 50-foot-high concrete arch dam having an overflow spillway; (3)

Gem Lake Reservoir with a surface area of 275 acres and a usable storage capacity of 17,000 acre-feet at maximum reservoir elevation 9,048 feet formed by; (4) a 688-foot-long, 80-foot-high, concrete arch dam having an overflow spillway; (5) Agnew Lake Reservoir with a surface area of 40 acres and a usable storage capacity of 800 acre-feet maximum reservior elevation 8,492 feet formed by; (6) a 278-foot-long, 30-foot-high concrete arch dam having an overflow spillway; (7) a 48-inch-diameter, 4600-foot-long steel pipe from Gem Dam to a valve house below Agnew Dam; (8) a 30-inch-diameter, 580-foot-long steel pipe from Agnew Dam to the valve house; (9) two 4,300-foot-long steel penstocks, varying in diameter from 30 inches to 28 inches; (10) Rush Creek Powerhouse located at elevation 7,249 feet, containing two generating units with a total capacity of 8,400 kW; (11) a switchyard; and (12) a 240-foot-long, 115-kV transmission line from the powerhouse to the June Lake Substation. The average annual eneregy generation is estimated to be 48.73 million kWh.

The Rush Creek Project is currently operated by Southern California Edison Company (Edison) as Project No. 1389. The original license expires on November 30, 1986. On December 1, 1981, Edison filed an application for a new license for the project. Thus, the June Lake Public Utility District's application for the Rush Creek Project competes with the application filed by Edison.

l. Purpose of Project: The energy generated by the project would help meet the demands of the consumers within the Applicant's service area.

m. This notice also consists of the following standard paragraphs: B, C.

Competing Applications

-A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or natural water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a

preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§ 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies and requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period,

that agency will be presumed to have none. Other Federal, State, and local agencies and requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 9, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-27028 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipelines; Tentative Valuations

September 28, 1983.

The Federal Energy Regulatory Commssion by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1982 Reports

Valuation Docket No. PV—

1364–000 Acorn Pipe Line Company, P.O. Box 87535, Houston, TX 77287
1414–000 Allegheny Pipeline Company, P.O. Box 2521, Houston, TX 77252
1439–000 Amdel Pipeline, Inc., P.O. Box 2159, Dallas, TX 75221
1440–000 American Petrofina Pipe Line Company, P.O. Box 2159, Dallas, TX 75221
1302–000 Amoco Pipeline Company, 200 E. Randolph Dr., Chicago, IL 60601
1329–000 ARCO Pipeline Company, ARCO Building, Independence, KS 67301
1291–000 Ashland Pipe Line Company, Ashland Dr., Russell, KY 41169
1381–000 Badger Pipe Line Company, 3400 So. Badger Rd., Arlington Hghts., IL 60005
1430–000 Belle Fourche Pipeline Company, 895 West River Cross Rd., Casper, WY 82601
1425–000 Black Lake Pipe Line Company, 515 So. Flower St., Los Angeles, CA 90071
1322–000 Buckeye Pipeline Company, P.O. Box 368, Emmaus, PA 18049
1382–000 Butte Pipe Line Company, P.O. Box 2648, Houston, TX 77252
1404–000 Calnev Pipe Line Company, P.O. Box 7, Ft. Worth, TX 76101
1416–000 Chevron Pipe Line Company, 555 Market St., San Francisco, CA 94120
1427–000 Chicap Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1312–000 Cities Service Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1433–000 Collins Pipeline Company, P.O. Box 2511, Houston, TX 77001
1422–000 Colonial Pipeline Company, Lenox Towers, P.O. Box 18855, Atlanta, GA 30328
1316–000 Continental Pipe Line Company, 3411 Richmond Ave., Houston, TX 77252
1426–000 Cook Inlet Pipe Line Company, 1201 Elm St., Dallas, TX 75270
1365–000 Crown-Rancho Pipe Line Corporation, 4747 Bellaire Blvd., Suite 500, Bellaire, TX 77401
1349–000 Diamond Shamrock Corporation, 717 N. Harwood, Dallas, TX 75201
1411–000 Dixie Pipeline Company, P.O. Box 3706, Houston, TX 77001
1385–000 Emerald Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1338–000 The Eureka Pipe Line Company, 963 Market Street, Parkersburg, WV 26101
1441–000 Explorer Pipeline Company, 2725 E. Skelly Dr., Tulsa, OK 74105
1394–000 Exxon Pipeline Company, P.O. Box 2220, Houston, TX 77001
1341–000 Farmland Industries, Inc., 3315 N. Oak Trafficway, Kansas city, MO 64116
1389–000 Four Corners Pipe Line Company, 5900 Cherry Avenue, Long Beach, CA 90805
1402–000 Getty Pipeline, Inc., 1670 Broadway, Denver, CO 80202
1436–000 Gulf Central Pipeline Company, 907 S. Detroit Ave., Tulsa, OK 74120
1333–000 Gulf Pipeline Company, 909 Fannin, Houston, TX 77010
1409–000 Hess Pipeline Company, 1185 Avenue of the Americas, New York, NY 10036
1431–000 Hydrocarbon Transportation, Inc., 2223 Dodge Street, Omaha, NE 68102
1406–000 Jayhawk Pipeline Corporation, P.O. Box 1030, Wichita, KS 67201
1413–000 Jet Lines, Inc., 522 Cottage Grove Road, Bloomfield, CT 06002
1375–000 Kaneb Pipe Line Company, 100 N. Broadway, Wichita, KS 67202
1299–000 Kaw Pipe Line Company, P.O. Box 42130, Houston, TX 77242
1429–000 Kerr-McGee Pipeline Corporation, Kerr-McGee Center, Oklahoma City, OK 73125
1435–000 Kiantone Pipeline Corporation, P.O. Box 780, Warren, PA 16365
1419–000 Lake Charles Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1354–000 Lakehead Pipe Line Company, Inc., 3025 Tower Avenue, Superior, WI 54880
1403–000 Laurel Pipe Line Company, P.O. Box 426, Camp Hill, PA 17011
1392–000 Marathon Pipe Line Company, 231 E. Lincoln St., Findlay, OH 45840
1395–000 Mid-America Pipeline Company, 1800 South Baltimore Avenue, Tulsa, OK 74119
1353–000 Mid-Valley Pipeline Company, 907 S. Detroit Ave., Tulsa, OK 74120
1448–000 Mobil Eugene Island Pipeline Company, 1201 Elm St., Dallas, TX 75270
1311–000 Mobil Pipe Line Company, First International Building, 1201 Elm St., Dallas, TX 75270
1332–000 National Transit Company, 93 Bolivar Drive, Bradford, PA 16701
1455–000 Ohio Oil Gathering Corporation II, Suite 400, 201 King of Prussia Rd., Radnor, PA 19087
1292–000 Ohio River Pipe Line Company, 1000 Ashland Drive, Russell, KY 41169
1417–000 Olympic Pipe Line Company, 1201 Elm St., Dallas, TX 75270
1456–000 Owensboro-Ashland Company, 2000 Ashland Drive, Russell, KY 41169
1420–000 Paloma Pipe Line Company, 3900 Thanksgiving Tower, Dallas, TX 75201
1320–000 Phillips Pipe Line Company, 944 Adams Building, Bartlesville, OK 74004
1372–000 Pioneer Pipe Line Company, P.O. Box 2197, Houston, TX 77252
1343–000 Plantation Pipe Line Company, 3390 Peachtree Rd. N.E., Atlanta, GA 30326
1367–000 Platte Pipe Line Company, 231 E. Lincoln St., Findlay, OH 45840
1458–000 Pogo Offshore Pipeline Company, P.O. Box 2504, Houston, TX 77252
1410–000 Portal Pipe Line Company, P.O. Box 3309, Englewood, CO 80155
1347–000 Portland Pipe Line Corporation, 30 Hill Street, South Portland, ME 04106
1327–000 Pure Transportation Company, 1650 East Golf Road, Schaumburg, IL 60196
1428–000 Santa Fe Pipeline Company, 907 S. Detroit Ave., Tulsa, OK 74120
1450–000 Seaway Pipeline, Inc., 370 Adams Bldg., Bartlesville, OK 74004
1369–000 The Shamrock Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1326–000 Shell Pipe Line Corporation, 777 Walker St., Houston, TX 77002
1335–000 Sohio Pipe Line Company, P.O. Box 5774, Cleveland, OH 44101
1424–000 Southcap Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1393–000 Southern Pacific Pipe Lines, Inc., 610 South Main Street, Los Angeles, CA 90014
1370–000 Sun Oil Line Company of Michigan, 907 S. Detroit Ave., Tulsa, OK 74120
1315–000 Sun Pipe Line Company, 907 S. Detroit Ave., Tulsa, OK 74120
1386–000 Tecumseh Pipe Line Company, 515 South Flower St., Los Angeles, CA 90071
1300–000 Texaco-Cities Service Pipe Line Company, P.O. Box 42130, Houston, TX 77242
1408–000 Texas Eastern Transmission Corporation, (Little Big Inch division), P.O. Box 2521, Houston, TX 77252
1293–000 Texas-New Mexico Pipe Line Company, P.O. Box 42130, Houston, TX 77242
1330–000 The Texas Pipe Line Company, P.O. Box 42130, Houston, TX 77242
1449–000 Texoma Pipe Line Company, P.O. Box 900, Dallas, TX 75221
1466–000 Tomahawk Pipe Line Company, P.O. Box 376, Tulsa, OK 74101
1357–000 Total Pipeline Corporation, P.O. Box 500, Denver, CO 80201
1379–000 Trans Mountain Oil Pipe Line Corporation, #800–601 W. Broadway, Vancouver, British Columbia, Canada V5Z 4C5
1412–000 Trans-Ohio Pipeline Company, P.O. Box 2521, Houston, TX 77252

1388-000 West Emerald Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1396-000 West Shore Pipe Line Company, P.O. Box 6110-A, Chicago, IL 60680
1362-000 West Texas Gulf Pipe Line Company, P.O. Box 3706, Houston, TX 77253
1421-000 White Shoal Pipeline Corporation, Kerr-McGee Center, Oklahoma, City, OK 73125
1423-000 Williams Pipe Line Company, P.O. Box 3448, Tulsa, OK 74101
1377-000 Wolverine Pipe Line Company, 1201 Elm St., Dallas, TX 75270
1355-000 Wyco Pipe Line Company, P.O. Box 6110-A, Chicago, IL 60680
1373-000 Yellowstone Pipe Line Company, P.O. Box 2220, Houston, TX 77001

On or before November 8, 1983, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in these valuations may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intevene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at the address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-26603 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4579-024, et al.]

Cities Service Oil and Gas Corporation, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

September 27, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person disiring to be heard or to make any protest with reference to said applications should on or before October 12, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385, 211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[2]	Pressure base
G-4579-024, Sept. 19, 1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	El Paso Natural Gas Company, Lea County New Mexico.	[1]	14.73
G-10670-000, D, Sept. 23, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Northwest Central Pipeline Corporation, Wakita Trend Field, Grand County, Oklahoma.	[3]	
C162-1253-002, D, Sept. 19, 1983	do	Arkansas Louisiana Gas Company, Centrahoma Field, Coal County, Oklahoma.	[3]	
C158-816-001, C, Sept. 13, 1983	Phillips Petroleum Company, 336 Home Savings and Loan Bldg., Bartlesville, Oklahoma 74004.	Northern Natural Gas Company, Panhandle Area, Gray County, Texas.	[3]	14.65
C177-210-002, C, Sept. 1, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Transco Gas Supply Company, High Island Area Block 110/111 Field, Offshore Texas.	[4]	14.65
C177-210-003,C, Sept. 19, 1983	do	Transco Gas Supply Company, N/2 of Block 138, High Island Area, Offshore Texas.	[4]	
C180-487-003, E, Sept. 12, 1983	Mitchell Energy Corporation (successor-in-interest-to Maynard Oil Company), P.O. Box 4000, The Woodlands, Texas 77380.	Natural Gas Pipeline Company of America, Decatur Gas Unit #1, Decatur Gas Unit A #1, Wise County, Texas.	[3]	14.65
C180-487-004, E, Sept. 12, 1983	do	Natural Gas Pipeline Company of America, Coke L. Gage Gas Unit "E" 1 and the G.F. Watson Gas Unit #1 Well, Wise County, Texas.	[4]	14.65
C183-411-000, F, Sept. 9, 1983	Texaco Producing Inc. (partial successor-in-interest-to Texaco Inc.), P.O. Box 52332, Houston, Texas 77052.	Florida Gas Transmission Corporation, Lake Mongoulois Field, St. Mary Parish, Louisiana.	[1]	15.025
C183-412-000, E, Sept. 12, 1983	Mitchell Energy Corporation (successor-in-interest-to Crown Central Petroleum, Corporation,) P.O. Box 4000, The Woodlands, Texas 77380.	Natural Gas Pipeline Company of America, L.D. Shawyer Gas Unit #1 and Coke L. Gage Gas Unit A #1 Well, Wise County, Texas.	[4]	14.65
C183-413-000, B, Sept. 9, 1983	Warren R. Haught, Agent, Route #3, Box 14, Smithville, West Virginia 26178.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, West Virginia.	[3]	
C183-414-000, B, Sept. 9, 1983	do	Consolidated Gas Supply Corp., Grant District, Ritchie County, West Virginia.	[3]	
C183-415-000, B, Sept. 9, 1983	do	Consolidated Gas Supply Corp., Murphy District, Ritchie County, West Virginia.	[3]	
C183-416-000, B, Sept. 9, 1983	do	Consolidated Gas Supply Corp., Glenville District, Gilmer County, West Virginia.	[3]	
C183-418-000 (C180-229), B, Sept. 12, 1983	Felmont Oil Corporation, 6 East 43rd Street, New York, New York 10017.	Northern Natural Gas Company, Galveston Area Block A-157, Offshore Texas.	[10]	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[2]	Pressure base
CI83-419-000, A, Sept. 12, 1983	Samedan Oil Corporation, P.O. Box 909, Ardmore, Oklahoma 73401.	Texas Eastern Transmission Corporation, East Cameron Block 215, Offshore Louisiana.	[11]	15.025
CI83-420-000, B, Sept. 12, 1983	Grace Petroleum Corporation, 6501 North Broadway, Oklahoma City, Oklahoma 73116.	El Paso Natural Gas Company, Escrito Ext. Field, Rio Arriba County, New Mexico.	[12]	
CI83-421-000, B, Sept. 12, 1983	Texaco Producing Inc. (successor-in-interest to Texaco Inc.) P.O. Box 52332, Houston, Texas 77052.	Florida Gas Transmission Company, Lake Mongoulois Field, St. Mary Parish, Louisiana.	[13]	15.025
CI83-422-000, A, Sept. 13, 1983	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	Bridgeline Gas Distribution Company, West Cameron Block 536 (OCS-G-4773), Offshore Louisiana.	[14]	15.025
CI83-423-000, A, Sept. 13, 1983	do	Bridgeline Gas Distribution Company, West Cameron Block 547 (OCS-G-4408), Offshore Louisiana.	[14]	15.025
CI83-424-000, A, Sept. 13, 1983	do	Bridgeline Gas Distribution Company, South Timbalier Block 200 (OCS-G-4464), Offshore Louisiana.	[14]	15.025
CI83-425-000, E, Sept. 13, 1983	Mitchell Energy Corporation (successor-in-interest-to Maynard Oil Company) P.O. Box 4000, The Woodlands, Texas 77380.	Natural Gas Pipeline Company of America, S. C. Barron Gas Unit #1 and the Waggoner Unit #3 Wells, Wise County, Texas.	[15]	14.65
CI83-427-000 (CI69-1155), B, Sept. 12, 1983.	Howell Petroleum Corporation, 1010 Lamar, Suite 1800, Houston, Texas 77002.	El Paso Natural Gas Company, Chenot Plant, Pecos County, Texas.	[16]	
CI83-428-000, A, Sept. 15, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Pipeline Company, West Delta Block 67 N/2, Offshore Louisiana.	[17]	15.025
CI83-429-000, B, Sept. 13, 1983	Texas No. Z Corp., 250 Park Avenue, New York, New York 10177.	Transcontinental Gas Pipe Line Corporation, Iberia Investment Corp. #1, Southwest Avery Island Field, Iberia Parish, Louisiana.	[18]	
CI83-430-000, B, Sept. 15, 1983	Phillips Oil Company (sucessor-in-interest-to General American Oil Company of Texas), 336 H&SL Building, Bartlesville, Oklahoma 74004.	Aminoil USA, Inc. (successor-in-interest-to Signal Oil and Gas Company), SE/4 SW/4 Section 13-2S-4W, Stephens County, Oklahoma.	[19]	
CI83-431-000 (CI62-510), B, Sept. 15, 1983.	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Shell Oil Company, Little Creek Field Unit, Lincoln County, Mississippi.	[20]	
CI83-432-000, A, Sept. 16, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, South Timbalier Block 37 Field, Offshore Louisiana.	[21]	14.73
CI83-433-000 (CI70-715), B, Sept. 19, 1983.	Cramon Stanton, Inc., 5906 Bermuda Dunes Drive, Houston, Texas 77069.	Columbia Gas Transmission Corp. (United Fuel Gas Co.), Cooper's Creek, Newburg Sand Field, Poca Distrct, Kanawha County, West Virginia.	[22]	
CI83-426-000 (CI80-229), B, Sept. 12, 1983.	Case-Pomeroy Oil Corporation, P.O. Box 1511, Midland, Texas 79702.	Northern Natural Gas Company, Galveston Area Block A-157, Offshore, Texas.	[23]	

[1] Applicant is filing to extend depth limitation from 3200 feet to 3500 feet.
[2] Depletion of reserves.
[3] Applicant is filing under the Gas Exchange Agreement dated June 17, 1968, as amended.
[4] Applicant is filing under Gas Purchase Contract dated November 4, 1976, amended by Amendment dated August 16, 1983, and Letter Agreement dated July 27, 1983.
[5] On July 1, 1983, Mitchell succeeded to the Small Producer interest of Maynard in the Decatur Gas Unit #1 and the Decatur Gas Unit A #1 wells located in Wise County, Texas.
[6] On July 1, 1983, Mitchell succeeded to the Small Producer interest of Maynard in the Coke L. Gage Gas Unit "E" #1 and the G. F. Watson Gas Unit #1 wells located in Wise County, Texas.
[7] Applicant has acquired by assignment an interest of Texaco Inc., Assignor, of certain properties in the Lake Mongoulois Field, St. Mary Parish, Louisiana.
[8] On July 1, 1983, Mitchell succeeded to the Small Producer interest of Crown Central in the L. D. Shawyer #1 and the Coke L. Gage Gas Unit D #1 wells located in Wise County, Texas.
[9] Low gas production.
[10] Ceased production due to depletion May 24, 1983.
[11] Applicant is filing under Gas Purchase Contract dated August 24, 1983.
[12] Change of purchasers in order to utilize existing compression facilities on marginal natural gas well.
[13] Applicant has acquired by assignment an interest of Texaco Inc., Assignor, of certain properties in the Lake Mongoulois Field, St. Mary Parish, Louisiana.
[14] Applicant is filing under Gas Sales and Purchase Contract dated September 9, 1983.
[15] On July 1, 1983, Mitchell succeeded to the Small Producer interest of Maynard in the S. C. Barron Gas Unit #1 and the Waggoner #1 wells in Wise County, Texas.
[16] Operation of the plant from which the sale of El Paso is made is no longer economic under the terms of the contract or on the new terms proposed by El Paso.
[17] Applicant is filing under Gas Purchase Contract dated September 6, 1983.
[18] Well has been plugged and abandoned effective August 8, 1982, and no further production is planned.
[19] Termination of contract. Last gas sales December, 1975.
[20] All of Sun's leases under said percentage of the proceeds contracts have expired and all contracts have exceeded their primary terms and were cancelled contemporaneously by their own terms.
[21] Applicant is filing under Gas Purchase and Sales Agreement dated August 9, 1983.
[22] Service abandoned December, 1979 by Columbia Gas. Sulphur plant removed from Cooper's Creek Field, Reserves depleted.
[23] Ceased production due to depletion May 24, 1983.
Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 83-26994 Filed 10-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 7032-001]

Richard R. Gresham; Surrender of Preliminary Permit

September 28, 1983.

Take notice that Richard R. Gresham, Permittee for the Gresham Brothers Lake Creek No. 3 Project No. 7032, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 7032 was issued on August 4, 1983, and would have expired on January 31, 1985. The project would have been located on Lake Creek in Shoshone County, Idaho.

Permittee filed the request on September 8, 1983, and the surrender of the preliminary permit for Project No. 7032 is deemed accepted as of September 8, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26995 Filed 10-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-489-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

September 27, 1983.

Take notice that on August 31, 1983, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83-489-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the constrcution and operation of certain pipeline looping and appurtenant facilities, all as more fully set forth in the application which is onfile with the Commission and open to public inspection.

Transco proposes to construct and operate on its mainline system in Lousiana approximately 28.13 miles of 42-inch pipeline loop in Allen Parish between its Compressor Station Nos. 45 and 50 and approximately 22.46 miles of 42-inch pipeline loop in Pointe Coupee Parish between its Compressor Station Nos. 50 and 60.

Transco states that the proposed facilities are required in order to increase its capability to move additional from its Southwest Louisiana Gathering System (which transports gas supplies gas principally from the

offshore Texas area, notably from the High Island Offshore System) and from other systems of Transco which transport gas from offshore Texas, to its Station No. 65. Station No. 65 is located at the junction of Transco's Southeast Louisiana Gathering System and its mainline in St. Helena Parish at the Lousiana-Mississippi state line, it is explained.

Transco states it anticipates that during the 1984–85 winter season, the peak day volumes which would be required to be moved to Station No. 65 through the mainline system from all upstream sources would be 2,348,286 Mcf of gas per day, compared to 2,174,247 Mcf per day presently able to reach such station. Further, Transco submits that the 2,348,286 Mcf per day volume represents the sum of anticipated maximum flowing supplies from presently attached sources as well as new sources to be attached, withdrawal volumes from the Washington Storage Field, vloumes attributable to exchange transactions in this area of the system, and short-haul and long-haul transportation volumes. The volumes flowing east from Station No. 65 toward the market area would remain unchanged at 3,100,000 Mcf of gas per day, it is stated.

It is stated that the proposed facilities are estimated to cost $48,780,000 which would be financed initially through revolving credit arrangements, short-term loans and funds on hand. Permanent financing would be undertaken as part of an overall long-term financing program at a later date, it is explained.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority constained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25930 Filed 10-3-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59132A; BH-FRL 2429-3]

Toxic and Hazardous Substance Control; Test Marketing Exemption, Approvals

Correction

In FR Doc. 83-24369 beginning on page 40438 in the issue of Wednesday, September 7, 1983, make the following correction:

On page 40439, column one, lines three and forty "*Commencing on:* (Insert signature date.)" should read "*Commencing on:* August 25, 1983".

BILLING CODE 1505-01-M

[OPTS-59132B; BH-FRL 2429-2]

Toxic and Hazardous Substance Control; Test Marketing Exemption Approvals

Correction

In FR Doc. 83-24370 appearing on page 40439 in the issue of Wednesday, September 7, 1983, make the following corrections:

1. On page 40439, third column, eleventh line, "*Commencing on:* (Insert signature date.)" should read "*Commencing on:* August 26, 1983".

2. On the same page, third column, line thirty-one, "*Import Volume*" should read "*Production Volume*".

3. On the same page, third column, line thirty-seven, "*Commencing on:* (Insert signature date.)" should read "*Commencing on:* August 26, 1983".

Billing Code 1505-01-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 § 522.7 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-3844-8.

Title: The Port of Seattle and Harbor Island Marine Associates, amended Lease Agreement.

Parties: Port of Seattle (Port) and Harbor Island Marine Associates (HIMA).

Synopsis: Agreement No. T-3844-8 amends the basic agreement by revising the rental schedule for the leased premises, modifies the Port's termination rights and eliminated provisions allowing condominiumization. The changes are pursuant to negotiations resulting from delays experienced by the Developer in obtaining the necessary Corps of Engineers permit and financing.

Filing Party: Mr. H. H. Wittren, Associate Director of Real Estate, Leasing, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreement No.: T-4140.

Title: Port of Oakland and Marine Terminals Corporation, Management Agreement.

Parties: Port of Oakland (Port) and Marine Terminals Corporation (MTC).

Synopsis: Agreement No. T-4140 provides for the assignment by the Port to MTC the responsibility of management, terminal operation and cargo solicitation services at the Port's

Ninth Avenue Terminal. As compensation MTC will pay to the Port 85 percent of Terminal Revenue with exception of military shipments for which port receives 90 percent of tariff revenues. If tariff revenues exceed $1,200,000 per year MTC pays to Port 75 percent of wharfage and dockage for the excessive amount but continues to pay 85 percent of revenue from wharf demurrage and storage and 90 percent of tariff revenues from military cargo. MTC guarantees Port the sum of $720,000 as minimum compensation. If the total revenue tons in any contract year do not amount to 240,000 tons the Port can cancel the agreement. When Agreement No. T-4140 becomes effective Agreement No. T-3920 between the parties will terminate.

Filing Party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No.: T-4142.

Title: American President Lines, Ltd., Eagle Marine Services, Ltd. and Johnson ScanStar, Container Stevedoring and Terminal Services Agreement.

Parties: American President Lines, Ltd. (APL), Eagle Marine Services, Ltd. (EMS) and Johnson ScanStar (JSL).

Synopsis: Agreement No. T-4142, between APL, EMS and JSL provides for the terminal facilities and labor services to be performed by APL/EMS in behalf of Johnson ScanStar at the Port of Seattle. Agreement No. T-4142, when approved, replaces and supercedes Agreement No. T-3907 between the parties.

Filing Party: David Ainsworth, Assistant General Counsel, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Agreement No.: 3868-32.

Title: United States Atlantic & Gulf/Panama Freight Conference.

Parties: Delta Steamship Lines, Inc., Lykes Bros. Steamship Co., Inc., Sea-Land Service, Inc., United States Lines, Inc.

Synopsis: Agreement No. 3868-32 amends the basic agreement to authorize the parties to take independent action on rates only.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Agreement No.: 10270-5.

Title: Gulf European Freight Association.

Parties: Atlantic Cargo Services, AB, Gulf Europe Express, Hapag-Lloyd AG, Lykes Bros. Steamship Co., Inc., Sea-Land Service, Inc., Trans Freight Lines.

Synopsis: The proposed amendment would add a 30 day notice proviso to the independent action procedures necessary for the establishment of individual intermodal tariffs by the association membership.

Filing Party: Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, New York 10004.

Agreement No.: 10382-4.

Title: Argentina/U.S. Gulf Pool Agreement.

Parties: Delta Steamship Lines, Inc., Empresa Lineas Maritimas Argentinas S. A., A. Bottacchi S. A. de Navegacion C.F.I.I., Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional, Transportacion Maritima Mexicana S. A., Cylanco S. A.

Synopsis: Agreement No. 10382-4 amends the basic agreement to (1) add Cylanco as a party and eliminate Montemar as a party; (2) extend the agreement for an additional three-year term ending December 31, 1986; (3) reduce the minimum sailing requirements for some of the parties; (4) modify the revenue pooling provisions; (5) effect clarifying modifications to the pool committee provisions and to various other provisions; and (6) restate the agreement in its entirety.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Agreement No.: 10389-1.

Title: U.S. Gulf/Argentina Pool Agreement.

Parties: Delta Steamship Lines, Inc., Empresa Lineas Maritimas Argentinas S. A., A. Bottacchi de Navigacion C.F.I.I.

Synopsis: Agreement No. 10389-1 amends the basic agreement to (1) extend the agreement for an additional three-year term ending December 31, 1986; (2) reduce the minimum number of required sailings; (3) modify the revenue pooling provisions; (4) effect clarifying modifications to the pool committee provisions and to various other provisions; and (5) restate the agreement in its entirety.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Dated: September 29, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-27015 Filed 10-3-83; 8:45 am]

BILLING CODE 6730-01-M

[FMC Agreements Nos. 10107 and 10108]

Termination of Agreements

Agreement No. 10107, covering the trade from Hong Kong, Taiwan and Macao to United States Pacific Coast ports and Agreement No. 10108, covering the trade from Hong Kong, Taiwan and Macao to United States Atlantic and Gulf Coast ports stand terminated as of September 12, 1983, the date of resignation of the last members from the respective agreements. By Order of the Federal Maritime Commission.

Dated: September 29, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-27014 Filed 10-3-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities; Manufactures Hanover Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determine 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 writting and received by the appropriated Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33

Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York (consumer financing and credit related insurance activities; Indiana): To engage through its subsidiary, Finance One of Indiana, Inc., ("Finance One/Indiana"), in the activities of consumer finance, including, but not limited to, the extension of direct loans, secured and unsecured, to consumers and the purchase of sales finance contracts; servicing such loans and other extensions of credit; and, in conformance with the terms of Section 601 (A) and (D) of the Garn-St Germain Depository Institutions Act of 1982, to act as agent or broker for the sale or credit single and joint life insurance and decreasing or level term (in the case of single payment loans) credit life insurance, and credit accident, health, and property insurance, all directly related to extensions of credit made or acquired by Finance One-Indiana. These activities will be conducted from a *de novo* office of Finance One/Indiana located in New Albany, Indiana, and serving Harrison, Floy, Clark, and Washington Counties, Indiana. Comments on this application must be received not later than October 28, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorporation*, Sheboygan, Wisconsin, (leasing personal property; Wisconsin, upper peninsula of Michigan): To engage, through its subsidiary, Citizens Euipment Financing Corporation, in leasing personal property or acting as agent, broker, or advisor in leasing such property. These activities would be conducted in Wisconsin and the upper peninsula of Michigan, for an office to be located in Milwaukee, Wisconsin. Comments on this application must be received not later than Octover 18, 1983.

2. *Irwin Union Corporation*, Columbus, Indiana (mortgage banking activities; Arizona): To engage, through its subsidiary, Inland Mortgage Corporation, in mortage banking activities, including the direct extension of residential mortgage loans to individuals and the servicing of such loans for investors. These activities would be conducted from offices in Phoenix, Arizona and Tucson, Arizona, serving the State of Arizona. Comments on this application must be received not later than October 19, 1983.

c. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Meredosia Bancorporation, Inc.*, Springfield, Illinois (insurance activities; Illinois): To engage in general insurance agency activities in towns with a population not exceeding 5,000, in conformance with the terms of section 601(C) of the Garn-St Germain Depository Institutions Act of 1982. These activities will be conducted at the office of Applicant's subsidiary banks located in the towns of Meredosia and Virden, both in Illinois, serving Morgan and Macoupin Counties, Illinois. Comment on this application must be received not later than October 28, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Sunwest Financial Services, Inc.*, Albuquerque, New Mexico (insurance and financing activities; New Mexico): To engage through its subsidiary, Sunwest Insuarance Company, in the sale and underwriting of insurance limited to assuring repayment of the outstanding balance due on specific extensions of credit by subsidiary banks in the event of the death, disability, or involuntary unemployment of the debtor as permitted by Section 601(A) Title VI—Property, Casualty, Life Insurance Activities of Bank Holding Companies, of the Garn-St Germain Depository Institutions Act of 1982. The sale of the insurance would be conducted by Sunwest's subsidiaries in New Mexico, serving the State of New Mexico. Comments on this application must be received not later than October 28, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Puget Sound Bancorp*, Tacoma, Washington (insurance activities; Arizona): To engage, through its subsidiary, Puget Sound Life Insurance Company, in the activity of underwriting, as reinsurer credit life, accident and health insurance policies written in connection with extensions of credit by Applicant's subsidiaries. This activity is permitted by Title VI, Section 601 of the Garn-St Germain Depository Institutions Act of 1982, codified at 12 U.S.C. 1843 (c)(8)(A). Puget Sound Life Insurance Company will conduct its reinsurance activities in the State of Arizona. Comments on this application must be received not later than October 28, 1983.

Board of Governors of the Federal Reserve System, September 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-26996 Filed 10-3-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; DuQuoin Bancorp, Inc. and Anton Bancshares, Inc.

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. *DuQuoin Bancorp, Inc.*, DuQuoin, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to DuQuoin National Bank, DuQuoin, Illinois. Comments on this application must be received not later than October 28, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Anton Bancshares, Inc.*, Anton, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Bank, Anton, Texas. Comments on this application must be received not later than October 28, 1983

Board of Governors of the Federal Reserve System, September 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-26997 Filed 10-3-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Civil Money Penalties and Assessments for Filing of False or Improper Claims, Delegation of Authority

Notice is hereby given that on July 27, 1983, the Secretary of Health and Human Services delegated to the Inspector General the authority conveyed to the Secretary by Section 1128A of the Social Security Act, as amended. Included in the delegation is the authority to make determinations regarding the filing of false or improper claims in the Medicare, Medicaid, or Maternal and Child Health Services Block programs, and to propose civil money penalties and assessments. Excluded from the delegation is the authority to conduct hearings.

The Inspector General may redelegate and authorize further redelegation of the authority delegated to him.

Dated: September 23, 1983.

John J. O'Shaughnessy,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 83-27002 Filed 10-3-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[FDA-225-83-0003]

Memorandum of Understanding With Memphis State University

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with Memphis State University (MSU). The purpose of the understanding is to provide the mechanism for a collaborative program between MDU and FDA's National Center for Toxicological Research (NCTR).

EFFECTIVE DATE: This agreement became effective September 14, 1983.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be publishing in the **Federal Register**, the agency's publishing the following memorandum of understanding:

Memorandum of Understanding Between Memphis State University and the Food and Drug Administration National Center for Toxicological Research

I. Purpose

This agreement will provide the mechanism for a collaborative program between Memphis State University (MSU) and the Food and Drug Administration's National Center for Toxicological Research (NCTR).

II. Background

Memphis State University is a state operated University governed by the Tennessee State Board of Regents with approximately 21,000 students. One of the major objectives of the University is to produce students who are well prepared and highly motivated to pursue advanced study in the biomedical sciences.

The National Center for Toxicological Research is a Federal laboratory specializing in biomedical research. A part of NCTR's goal is to assist in training highly qualified toxicologists. The collaborative program with MSU provides an opportunity to accomplish this while furthering NCTR's research goals.

III. Substance of Agreement

Through this agreement, NCTR will provide facilities, equipment, materials, and limited supervision for outstanding science students who will serve as guest workers at the Center performing collaborative research with NCTR scientists. In addition, NCTR will provide guest worker positions or appointments to do collaborative research for qualified faculty members of MSU, if spaces are available during summers or periods of sabbatical leave, or other mutually agreeable periods.

NCTR and MSU will establish a joint guest lecture and seminar program for the benefit of all members of both institutions to promote exchange of information on the latest developments at both institutions. To further accomplish this objective, members of the staffs of NCTR and MSU will be granted access to the Library facilities of both institutions.

IV. Name and Address of Participating Parties

A. Memphis State University, Memhis, Tennessee 38152.

B. Food and Drug Administration, National Center for Toxicological Research, Jefferson, Arkansas 72079.

V. Liaison Officers

A. For Memphis State University: President, Memphis State University (currently, Dr. Thomas G. Carpenter), 901-454-2234.

B. For National Center for Toxicological Research: Director, National Center for Toxicological Research (currently, Dr. Ronald W. Hart), 501-541-4517.

IV. Period of Agreement

This agreement becomes effective upon acceptance by both parties and will continue indefinitely. It may be modified by mutual consent or terminated by either party upon a 60-day advance written notice to the other.

Approved and Accepted for Memphis State University
By: s/T.G. Carpenter
Title: President
Dated: August 25, 1983.
Approved and Accepted for the Food and Drug Administration
By: s/Joseph P. Hile
Title: Associate Commissioner for Regulatory Affairs
Dated: September 14, 1983.

Effective date. This Memorandum of Understanding became effective September 14, 1983.

Dated: September 28, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26078 Filed 10-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0311]

Radiation Technology, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Radiation Technology, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to control insect infestation in garlic powder, onion powder, and dried spices.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3M3745) has been filed by Radiation Technology, Inc., P.O. Box

185, Lake Denmark Rd., Rockaway, NJ 07866, proposing that § 179.22 *Gamma radiation for the treatment of food* (21 CFR 179.22) be amended to provide for the safe use of a source of gamma radiation to control insect infestation in galic powder, onion powder, and dried spices.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 27, 1983.

Richard J. Ronk,

Acting Director for Bureau of Foods.

[FR Doc. 83-26877 Filed 10-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 79N-0010; DESI 1626]

Single-Entity Theophylline and Other Xanthine Derivatives; Drugs for Human Use; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) amends its previous notices on various xanthine bronchodilator drug products to (1) request bioavailability data for these products, including those that are the subject of an approved new drug application; and (2) extend its findings on those drugs to single-entity oral dosage forms of certain other chemical forms of theophylline that are on the market and that are effective as bronchodilator drugs. These related products are regarded as new drugs for which approved new drug applications are required for marketing.

DATES: Effective October 4, 1983.

Submissions in support of a claimed exemption from the new drug provisions of the Federal Food, Drug, and Cosmetic Act must be submitted by December 5, 1983.

ADDRESSES: Communications pursuant to this notice should be identified with the reference number DESI 1626 and FDA Docket number 79N-0010, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857.

Supplements to original new drug applications (NDA's) containing bioavailability data: Division of Surgical-Dental Drug Products (HFN-160), National Center for Drugs and Biologics.

Original abbreviated new drug applications (ANDA's) and supplements thereto including supplements that contain bioavailability data (identify as such): Division of Generic Drug Monographs (HFN-530), National Center for Drugs and Biologics.

Requests for protocol guidlines for in vivo bioavailability studies and dissolution tests: Division of Biopharmaceutics (HFN-520), National Center for Drugs and Biologics.

Requests for labeling guidelines: Division of Generic Drug Monographs (HFN-530), National Center for Drugs and Biologics.

Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics.

Submissions concerning exemption from new drug provisions of the act: Dockets Management Branch (HFA-305), Rm. 4-62.

FOR FURTHER INFORMATION CONTACT: Jean Patterson, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: Previous notices, published as part of the Drug Efficacy Study Implementation (DESI) program, have announced FDA's evaluations of effectiveness and the marketing conditions for certain xanthine derivatives in various dosage forms. Those notices, referenced below, are now amended on the basis of additional information evaluated by FDA.

I. Background

In a notice (DESI 1626) published in the **Federal Register** of September 26, 1974 (39 FR 34593) (Docket No. FDC-D-678, Now Docket No. 79N-0010), FDA announced its reevaluation of certain xanthine derivatives in oral, parenteral, and rectal dosage forms that had been the subject of an earlier notice (July 26, 1972; 37 FR 14895). The September 26 notice stated that the drug products named therein were regarded as new drugs, that they were effective for the relief of acute bronchial asthma and for reversible bronchospasm associated with chronic bronchitis and emphysema, that they were suitable for abbreviated new drug application (ANDA) submissions, and that bioavailability data would be required. The notice specifically named drug products containing aminophylline, dyphylline, oxtriphylline, and theophylline sodium glycinate.

A later notice, published in the **Federal Register** of October 19, 1979 (44 FR 60410), further amended DESI 1626 and declared certain other dosage forms of aminophylline to be new drugs that require approved ANDA's.

Another notice (November 30 1979; 44 FR 69012, amending a notice of July 28, 1972 (37 FR 14895), published as DESI 5812 (Docket No. 79N-0422)) addressed the marketing conditions for aminophylline (with or without benzocaine) rectal suppositories. Because that notice includes a bioavailability requirement, it is not affected by this notice. This notice also does not apply to dyphylline products, previously covered in the September 26, 1974 notice. Dyphylline will be the subject of a future **Federal Register** notice.

In addition to the drug products specifically named in the notices of September 26, 1974, and October 19, 1979, FDA has considered certain other dosage forms of aminophylline, oxtriphylline, and theophylline sodium glycinate, as well as products containing theophylline, and has determined that they are related drug products to which the same findings of safety, effectiveness, and ANDA suitability apply. (See FDA's list, "Drug Products Suitable for Abbreviated New Drug Applications," dated November 3, 1982, as supplemented on July 1, 1983; 48 FR 30456.)

Although previous notices discussed the need for bioavailability studies to be conducted on most of the xanthine derivative dosage forms, the agency has recognized that problems in methodology and interpretation needed to be resolved. Therefore, until those problems could be resolved, the requirement for bioavailability data was postponed for all products except aminophylline suppositories, for which methodology was available at the time the November 30, 1979 notice was published. Bioavailability testing procedures are now available for other forms of these drugs, and the requirement to submit those data for both marketed drugs and those proposed to be marketed is no longer deferred.

II. Recent Developments

An extensive number and variety of studies on xanthine bronchodilator drugs have been carried out since the mid-1970's. The studies have provided much new scientific information. They

have established that this class of drugs has a narrow therapeutic/toxic ratio (Ref. 1). Studies have also demonstrated that there is considerable variation in metabolism (absorption and elimination) between patients administered theophylline. Factors such as age, smoking habits, diet, disease states and treatment have been identified as variables affecting the metabolism of theophylline and thus patient response to theophylline therapy (Refs. 2 and 3). This information emphasizes the need to monitor serum theophylline levels and to customize patient dosages.

New bioavailability/bioequivalence studies have also been conducted and analyzed. These studies were performed after the development of accurate and sensitive chemical methodology for determining the amount of active drug moiety in human blood and sera following administration of various xanthine bronchodilator drugs. They show that it is important to consider the differences in the bioavailability of the xanthine drugs in a variety of different dosage forms, as well as to assure that all such products are labeled as to their anhydrous theophylline content (Ref. 4).

The agency has also become aware of a variety of new controlled release products on the market without benefit of appropriate bioavailability/bioequivalence studies to define their in vivo performance and to serve as a basis for adequate labeling.

III. New Drug Requirements

In view of all the information available to it, the agency concludes that xanthine drugs in any dosage form offered for the relief and/or prevention of symptoms from asthma and reversible bronchospasm associated with chronic bronchitis and emphysema are new drugs and require approved new drug applications as a condition for marketing. The agency has already determined that many of these drug products are safe and effective and suitable for abbreviated new drug application procedures. For products not determined to be subject to these findings, full, rather than abbreviated, new drug applications may be required.

IV Amendment: Bioavailability Requirements.

This amendment applies to the notices dated September 26, 1974 and October 19, 1979 and cited above. The Director of the National Center for Drugs and Biologics (NCDB) concludes that xanthine derivatives in various dosage forms have demonstrated actual bioavailability/bioequivalence problems. Because suitable methodology for testing these drugs now exists, he concludes that the submission of test data should no longer be postponed. For certain products of the class for which NDA's or ANDA's have been approved, the bioavailability/bioequivalence studies previously deferred are being required now to be conducted to resolve the questions that arise when such data are lacking. In addition, for previously approved products which met inadequate bioavailability standards, new data will be required. (Test results are inadequate if they fail to establish a minimum of 80 percent bioavailability relative to an agency approved standard.) A dissolution test has been demonstrated to be sufficient to assure drug bioavailability of conventional tableted oral dosage forms of aminophylline (Ref. 5). Therefore, in vivo bioavailability requirements will be waived under 21 CFR 320.21(a) for products of that type if they meet the United States Pharmacopeia (U.S.P.) XX dissolution test specifications. A "conventional" tablet for purposes of this notice is one that is intended for immediate release and does not include enteric coated or controlled release tablets.

Therefore, in accordance with 21 CFR 320.21 (a) and (f), the DESI notices of September 26, 1974 and October 19, 1979, are amended to include the following:

1. An approved NDA or approved ANDA for a drug product containing a xanthine derivative should now be supplemented to provide data from appropriate bioavailability studies, as described in paragraph 3 below, unless the product is one for which such data are waived. The agency encourages applicants to submit these supplements as soon as possible to provide adequate time for review and approval by April 2, 1984. A supplement is not required if such data have previously been submitted and determined to be satisfactory, including a showing of at least 80 percent bioavailability relative to an agency approved standard. Failure of an applicant to obtain approval of a suppplement required under this paragraph by the above date may result in a proposal to withdraw approval of the application.

2. An NDA or ANDA for a xanthine derivative that is received by FDA after October 4, 1983 shall, in order to receive approval, contain, in addition to the other information required by 21 CFR 314.2 (previously 21 CFR 314.1(f), see 48 FR 2751; January 21, 1983), data from appropriate bioavailability studies, as described in paragraph 3 below.

3. Data from in vivo bioavailability studies will be required for any product containing aminophylline, oxtriphylline, theophylline (in any chemical form) or any other xanthine derivative except as described below:

a. For solid oral dosage forms (except any listed in b. below), a dissolution test is required in addition to in vivo studies. For oral suspensions, in vivo studies are required; dissolution testing is deferred until methodology is available.

b. For a conventional (immediate release) oral tablet form of aminophylline, in vivo studies are waived if the product meets U.S.P. XX dissolution test specifications.

c. Bioavailability studies are waived for any of these drugs in an oral dosage form that is a solution, elixir, or syrup and for intravenous solutions of any of these drugs.

4. Protocol guidelines for bioavailability studies and dissolution tests are available upon request from the Division of Biopharmaceutics (HFN-520) (address above).

V. Amendment: Additional Theophylline Drugs

This amendment applies to the notice dated September 26, 1974.

A. *Extension of findings to other chemical forms of theophylline.* The notice of September 26, 1974 stated that it applied to all persons who manufacture or distribute a drug product, not the subject of an approved NDA, that is identical, related, or similar to a drug product named in the notice, as defined in 21 CFR 310.6. The agency has accepted and approved a number of ANDA's for related or similar products determined by the agency to be subject to the same findings. Most related products have been other dosage forms of the drug entities named in the September 26, 1974 notice. This amendment, however, specifically identifies certain other chemical forms of theophylline to which the findings of the September 26, 1974 notice and, consequently, of this notice, are now considered to apply. These forms were not included in the Drug Efficacy Study; however, they are related drugs subject to the same findings of effectiveness and conditions for marketing, including an approved ANDA. They are as follows:

Theophylline,
Theophylline Calcium Salicylate,
Theophylline Ethanolamine,
Theophylline Isopropanolamine,
Theophylline Sodium Acetate,
Theophylline Sodium Salicylate,
Theophylline Olamine.

B. *Legal status.* Single-entity oral exanthine drugs used for the relief of symptoms from asthma and reversible bronchospasm associated with chronic bronchitis and emphysema are regarded

as new drugs as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)) and therefore subject to the requirements of section 505 of the act (21 U.S.C. 355).

Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings and conclusions, stated in a drug efficacy notice, that a drug product is a new drug are applicable to an identical, related, or similar drug product, such product is affected by the notice (21 CFR 310.6).

The Director of the National Center for Drugs and Biologics believes that qualified experts would conclude that the findings that the previously reviewed theophylline preparations for oral use are new drugs, are effective, and are suitable for ANDA's, apply also to oral dosage forms of the additional chemical forms of theophylline cited above. Accordingly, the September 26, 1974 notice, which named certain theophylline-containing products, is amended to state that the findings therein are extended to oral dosage forms of the chemical forms of theophylline listed above.

C. *Effectiveness classification.* FDA has considered all information available and concludes that oral preparations containing theophylline in the chemical forms specified in V.A. above, are effective for indications in the labeling conditions below.

D. *Conditions for approval and marketing.* FDA is prepared to approve ANDA's for these drug products under the conditions described herein.

1. *Form of drug.* The drug is in a form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

Indications

For relief and/or prevention of symptoms from asthma and reversible bronchospasm associated with chronic bronchitis and emphysema.

Labeling guidelines are available from the Director, Division of Generic Drug Monographs (HFN-530), (address given above).

3. *Marketing status of drugs listed in V.A.* a. For oral dosage forms of the chemical forms of theophylline referenced in A. above, approval of an abbreviated new drug application (21 CFR 314.2) will be required as a condition for marketing such products after April 2, 1984.

b. Because of a concern for the public health, the agency may take regulatory action against any unapproved product on the market after October 4, 1983 if the product purports to be a duplicate of one that is presently approved in accordance with the conditions of this notice, or if its formulation or labeling is such that it presents an immediate significant safety question.

4. *Bioavailability.* ANDA's for these orally administered products must include data from bioavailability testing unless the product is a solution, elixir, or syrup. Both in vivo studies and dissolution tests should be conducted on solid oral dosage forms and oral suspensions, except that dissolution tests for an oral suspension will be deferred until the methodology is made available. Guidelines for in vivo bioavailability studies and dissolution tests are available upon request from the Director, Division of Biopharmaceutics (address above).

E. *"Grandfather status."* FDA is not aware of any theophylline products on the market that qualify either for the "grandfather" exemption from the new drug provisions of section 505 of the act contained in section 201(p) of the act for products marketed prior to June 25, 1938, or for the "grandfather" exemption from the effectiveness standards otherwise applicable to new drugs contained in section 1z07(c) of the Drug Amendments of 1962. Any manufacturer who believes its product is entitled to an exemption from the new drug provisions of the act may file on or before December 5, 1983 documentation is support of the contention. The requirements governing such a submission are contained in 21 CFR 314.200(e)(2). Failure to submit the documentation will constitute a waiver of all claims to "grandfather" status. Four copies of submissions shall be filed and directed to the Dockets Management Branch (address above).

References

1. Jenne, J. W., M. S. Wyze, B. S. Rood, and F. M. McDonald, "Pharmacokinetics of Theophylline: Application to Adjustment of the Clinical Dose of Aminophylline," *Clinical Pharmacology and Therapeutics*, 13:349, 1972.

2. Jusko, W. J., M. J. Gardner, A. Mangione, J. J. Schentag, J. R. Koup, and J. W. Vance, "Factors Affectings Theophylline Clearances: Age, Tobacco, Marijuana, Cirrhosis, Congestive Heart Failure, Obesity, Oral Contraceptives, Benzodiazepines, Barbiturates, and Ethanol," *Journal of Pharmaceutical Sciences*, 68:1358, 1979.

3. Ogilvie, R. I., "*Clinical Pharmacokinetics*, 3:267–293, 1978.

4. Ellis, E. and E. D. Eddy, "Anhydrous Theophylline Equivalence of Commercial Theophylline Formulations," *Journal of Allergy and Clinical Immunology*, 53:116–119, 1974.

5. Riegelman, S., "Multiple Dosing Theophylline Bioavailability Study," FDA Contract 223–74–3145 Theophylline VIII; June 1980.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (21 CFR 5.70).

Dated: September 22, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83–26839 Filed 10–3–83; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Approval of Hospices To Participate in Medicare

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces that hospices may now apply to participate in the Medicare program. Hospices wishing to obtain approval to participate in the Medicare program must be surveyed for compliance with the applicable requirements and must obtain a Medicare provider agreement.

DATES: Hospice benefits under the Medicare program become payable beginning November 1, 1983 for services furnished to qualified beneficiaries by hospices whose Medicare provider agreements are in effect. There is no closing date for submitting requests to participate. However, obtaining a Medicare provider agreement is a prerequisite to begin reimbursed for hospice services furnished under the Medicare hospice benefit. an onsite survey and subsequent approval by HCFA must precede the issuance of a Medicare provider agreement.

FOR FURTHER INFORMATION CONTACT: Diane Milstead, Division of Institutional and Ambulatory Services (301) 594–3531.

If you choose, you may request further information by writing to the following address: Office of Survey and Certification, Health Standards and Quality Bureau, Health Care Financing Administration, 1849 Gwynn Oak Avenue, Baltimore, MD 21207.

SUPPLEMENTARY INFORMATION: Providers of health care services participate in the Medicare program under a provider agreement with HCFA.

In order to enter into a provider agreement, a provider must first be surveyed by a Medicare State survey agency for compliance with the health and safety requirements contained in the Medicare statute and regulations. The State survey agency certifies the results of its survey to HCFA. On the basis of the State survey agency's recommendation, HCFA determines if a provider is eligible to participate, and if so, issues a provider agreement. (For further information on certification procedures and provider agreements refer to Subpart S of 42 CFR Part 405, and 42 CFR Part 489.)

In section 122 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, enacted on September 3, 1982), Congress authorized hospice care as a new Medicare benefit and established hospices as providers. The hospice benefit will become effective November 1, 1983. In order to participate in the Medicare program, a hospice must first be surveyed by a State survey agency and receive a Medicare provider agreement from HCFA.

Medicare State survey agencies are beginning to survey hospices for Medicare approval. Although we have not yet published final regulations, a notice of proposed rulemaking (NPRM) was published August 22, 1983 (48 FR 38146) That contained proposed requirements. Because we anticipate that the final requirements will be similar to those published in the NPRM, HCFA has instructed the Medicare State survey agencies to survey based on the requirements in the NPRM. If final regulations are published by November 1, 1983, hospices will have to meet the requirements in the final regulations. Based on survey data, HCFA will determine whether or not the hospice complies with requirements specified in the final regulations. If final regulations have not been published by November1, 1983, hospices will be evaluated for compliance with a subset of the requirements in the NPRM that restate and apply the relevant statutory requiremants. Hospices must meet the requirements of the final regulations, once they go into effect.

We note that provider agreements for hospices may not be made effective prior to the date of the survey if all requirements are met. If a provider does not meet all requirements on the date of the survey, the effective date of the provider agreement is the date when the provider satisifies those requirements. However, in all instances the earliest possible effective date is November 1, 1983 (the date the hospice benefit becomes effective).

Any hospice organization that wishes to be approved for participation in the Medicare program should contact the appropriate Medicare State survey agency now. The State survey agency will explain further procedures to follow. The appropriate agency in virtually all States and territories is the State or Territorial Health Department. For additional information on how to contact the appropriate State survey agency, refer to the Section "FOR FURTHER INFORMATION", above.

(Secs. 1102, 1861(dd), 1864(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395x(dd), 1395x(dd), 1395aa(a), and 1395ii)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance)

Dated: September 23, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83-27003 Filed 10-3-83; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

National Toxicology Program Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Builing 101, South Campus, National Institute of Environmental Health Science, Research Triangle Park, North Carolina, on October 28, 1983.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of long term toxicology and carcinogenesis studies from the National Toxicology Program. Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals (listed alphabetically with Chemical Abstracts Service registry numbers and routes of administration) will be peer reviewed October 28. Also listed are the NTP chemical managers for each study.

Chemical (CAS Registry No.)	Route	Chemical manager (telephone No.)
Benzene (71-43-2)	Gavage	Dr. J. E. Huff (919-541-3780).
1,3-Butadiene (106-99-0).	Inhalation	Dr. M. B. Powers (301-496-9213).
Tris(2-Ethylhexyl)Phosphate (78-42-2).	Gavage	Dr. H. B. Matthews (919-541-3252).

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P. O. Box 12233, Research Triangle Park, North Carolina 27709, Telephone (919-541-3971), FTS (629-3971), will furnish rosters of subcommittee and panel members and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: September 28, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-26974 Filed 10-3-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise seven notices describing systems of records maintained by the Bureau of Mines. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the material in the **Federal Register** on December 22, 1980 (45 FR 84161) and January 26, 1981 (46 FR 8128). The seven revised notices are published in their entirety below.

Four systems of records notices (EBM-1, EBM-2, EBM-3, and EBM-4) are being revised to provide for compatilble disclosures to other Federal agencies for the purpose of collecting debts owed the Federal government through administrative or salary offset. The same four notices are being revised to provide for disclosures to consumer reporting agencies to facilitate the collection of debts pursuant to the provisions of 5 U.S.C. 552a(b)(12) and the Debt Collection Act of 1982 (31 U.S.C. 3711(f)).

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the **Federal Register** will be considered. The notices shall be effective as proposed without further notice at the end of the comment period.

unless comments are received which would require a contrary determination.

Dated: September 23, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

INTERIOR/EBM-1

SYSTEM NAME:

Payroll—Interior, Mines—1.

SYSTEM LOCATION:

(1) U.S. Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225. (2) Input documents supplied by all facilities of U.S. Bureau of Mines. (See Appendix for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Mines and other agency employees serviced by Mines and those formerly employed by Mines within the last two years.

CATEGORIES OF RECORDS IN THE SYSTEM:

A variety of documents which set forth or affect an employees's annual wage rate, leave, biweekly earnings, payroll deductions, and disposition of earnings, and records of overpayments and/or debts owed the Federal government. Hard copy records consist of a folder of microfilm and action-type documents for each employee. The information from these documents is recorded on computer tape for payroll purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to provide information and accounting records regarding employee pay and leave for the automated payroll data file; (b) to inform each Bureau office of the composition of their labor cost changes by reporting total payroll changes for each individual made to various cost accounts within the Finance system. This reporting is made every two weeks on a regular payroll cycle. Disclosures outside the Department of the Interior may be made (1) to provide states with pay data relative to claims for unemployment; (2) to the Department of the Treasury for preparation of payroll checks and payroll deduction and other checks to Federal, state and local government agencies, non-governmental organizations and individuals; (3) to the Internal Revenue Service and to state, commonwealth, territorial and local Governments for tax purposes; (4) to the Office of Personnel Management in connection with the Civil Service Retirement System; (5) to another Federal agency to which an employee has transferred; (6) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (10) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (11) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records, are microfilmed and maintained in file folders; magnetic tape, and punched cards in payroll file cabinet.

RETRIEVABILITY:

File folders are maintained by name and magnetic tape and punched cards are maintained by social security number.

SAFEGUARDS:

File folders are maintained in metal file cabinets which are in a locked room during periods of non-work. During working hours, access is allowed only to Division of Finance personnel. Punched cards have no interpreted printing on them and are retained in cardboard boxes in the same room as the file folders. Magnetic tapes are maintained in the Division of Data Processing with limited ADP personnel accessibility.

RETENTION AND DISPOSAL:

Actively employed personnel file folders are retained indefinitely. Inactive employees' folders (death, resignation, retirement, and separation) are destroyed after two years. Cards are destroyed after one year. Magnetic tapes are erased and reused in accordance with memorandum dated December 29, 1970 from the Chief, Division of Finance to the Chief, Division of ADP, Bureau of Mines. All other official payroll data are disposed of in accordance with General Records Schedule FPMR 101–11.4 dated August 1, 1974.

SYSTEM MANAGERS(S) AND ADDRESS:

Chief, Division of Finance, U.S. Bureau of Mines, Building 20, Denver Federal Center, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information he supplied. Pay rates and their applicability and leave regulations are established by public law and their effect upon the individual are in accordance with such public laws and regulations. Generally, most payroll source data are echo records of official personnel actions.

INTERIOR/EBM-2

SYSTEM NAME:

Travel Advance File—Interior, Mines—2.

SYSTEM LOCATION:

U.S. Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Bureau of Mines employees who have active travel advances or who have closed travel advances.

CATEGORIES OF RECORDS IN THE SYSTEM:

File consists of signed forms whereon employees request travel advances for the purpose of paying travel expenses incurred in the performance of offical government business. These forms also include repayments against any advances, whether by claims offset on travel vouchers or remittances by checks, money orders, etc., and records of overpayments and/or debts owed the Federal Government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4111(b), 5701–5709, 5721–5733, 5742(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to provide an accounting record of obligations due to the U.S. Government from employees authorized cash advances to defray expenses incurred in official travel. Payments to the traveler and repayments to the Government are reflected in this record; (b) to serve as a backup authority and manually reconciled file to the entries for travel expenses in the automated Finance system; (c) computer data are reported to each Bureau office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual Bureau offices are available to that office. Disclosures outside the Department of Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (6) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in cardboard boxes in the Division of Finance.

RETRIEVABILITY:

Files are stored alphabetically by fiscal year.

SAFEGUARDS:

Open files are kept by the Travel Advance Clerk for active usage. Closed records are kept in boxes in the vault. Files are accessible during working hours only by personnel from the Division of Finance. Office is locked during periods of non-work.

RETENTION AND DISPOSAL:

Disposition is in accordance with General Records Schedule, FPMR 101–11.4 dated August 1, 1974.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Finance, U.S. Bureau of Mines, Building 20, Denver Federal Center, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information for this system originates with the traveler who specifies the need of a travel advance. The request is concurred in by signature of a responsible supervisory official. All entries on the file are as a result of actions taken by the individual to liquidate his travel advance.

INTERIOR/EBM–3

SYSTEM NAME:

Travel Voucher and Authorizations—Interior, Mines—3.

SYSTEM LOCATION:

U.S. Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons traveling for or in behalf of the Bureau of Mines on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Voucher file consists of paid travel vouchers which reimburse travelers for expenses incurred in connection with official travel. Travel authorization file consists of record copies of authorizations for travel for which no travel voucher have been submitted for payment, and records of overpayments and/or debts owed the Federal Government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) as backup entry data for obligations and disbursements in the automated Finance system of the Bureau of Mines; (b) computer data are reported to each Bureau office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual Bureau offices are available to that office; (c) vouchers are used to determine allowability of expenses within the law authorizing payment of travel expenses. The documents are used to determine which expenses incurred by the traveler can be paid and are sometimes used to report to other Federal agencies

summarizations of those types of allowable expenses. Usually, the individual's name is not used in outside reporting but the date is. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records of the subject matter of the records; (2) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementating, the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (6) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(A)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in steel filing cabinet in the Division of Finance.

RETRIEVABILITY:

Vouchers are filed by voucher number in sequence of payment within the overall numbering sequence of the Finance system. Authorizations are filed alphabetically by name awaiting payment of travel voucher. Authorization becomes part of the voucher packet at time of payment.

SAFEGUARDS:

Files are maintained with safeguards meeting the requirements of 43 CFR 2.51 in the Division of Finance and are available only to Division of Finance of Finance personnel.

RENTENTION AND DISPOSAL:

Disposition is in accordance with General Schedule, FPMR 101–11.4 dated August 1, 1974.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Finance, Bureau of Mines, Building 20, Denver Federal Center, Denver CO 80225.

NOTIFICATION PROCEDURE:

Inquires regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information for these files in based on an authorization signed by the traveler in the form of a request. Travel vouchers are submitted by the traveler after incurring expenses for official travel and is a request for payment based on his record of official expenses.

INTERIOR/EBM–4

SYSTEM NAME:

Property Control—Interior, Mines—4.

SYSTEM LOCATION:

(1) Bureau of Mines, U.S. Department of the Interior, 2401 E Street, N.W., Washington, D.C. 20241. (2) All field facilities of the Bureau of Mines (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have custody or responsibility for Bureau of Mines property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information indicating what property, including equipment, motor vehicle operator's license, keys, motor pool vehicles, transportation request books, and parking spaces, for which the employee has custody or responsibility. In addition, all other records directly related to the property control function. The system also includes information on employee inventions which is maintained by name of invention, name of employee, and case number, and records on debts owed the Federal government due to loss or misuse of property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C 483(b)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) identification, assignment, and control of Bureau property; (b) assistance in locating carpools; Disclosures outside of the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order or license; (3) to other Federal agencies for the purpose of collecting debts owed to the Federal government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act. (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders or card indexes, a limited quantity on computer tape.

RETRIEVABILITY:

Indexed by employee name or control number.

SAFEGUARDS:

Security will be provided to meet the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Upon completion of the use period, vital records are transferred to the Official Personnel Folder or Federal Records Center and all other records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Division of Property and General Services, Bureau of Mines, 2401 E Street, N.W., Washington, D.C. 20241.

NOTIFICATION PROCEDURE:

System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employees. Property control information required for accountability purposes.

INTERIOR/EBM-5

SYSTEM NAME:

Personnel Identification—Interior, Mines—5.

SYSTEM LOCATION:

(1) Bureau of Mines, U.S. Department of the Interior, 2401 E Street, N.W., Washington, D.C. 20241. (2) All field facilities of the Bureau of Mines (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Bureau of Mines and contractor employees requiring access to Bureau facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning identification and location of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101; 43 U.S.C. 1457.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to provide identification cards to employees; (b) locator information provided for use by management to contact employees. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card indexes, manually.

RETRIEVABILITY:

Indexed by employee name and identification card number.

SAFEGUARDS:

Security will be provided to meet requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Destroyed 3 months after return of identification credential.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Property and General Services, Bureau of Mines, 2401 E Street, N.W., Washington, D.C. 20241.

NOTIFICATION PROCEDURE:

System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employees. Information necessary to prepare the identification card and locator index.

INTERIOR/EBM-6

SYSTEM NAME:

Safety Management Information System—Interior, Mines-6.

SYSTEM LOCATION:

(1) Bureau of Mines, U.S. Department of the Interior, 2401 E Street, N.W., Washington, D.C. 20241. (2) All field facilities of the Bureau of Mines retain copies of source documents. (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contractors, concessioners and public visitors to Bureau facilities who have been involved in an accident resulting in personal injury, and/or property damage or associated with a health hazard, radioactive materials, and radiation producing media in performance of job related duties or while a visitor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, social security number (employee only), occupational data and location of accident; data elements about the accident for analytical purposes; and descriptive narrative concerning the reason for the loss producing event. Also copeis of records of initial, re-examination, annual and terminal health physical of employees in potentially hazardous health and radiation situations. In addition, all other records directly related to employee health and safety.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 7901, (2) 28 U.S.C. 2761–2680, (3) 31 U.S.C. 240–243, (4) Executive Order 12196 (1980), (5) 29 CFR 1960, (6) Federal Employees Compensation Act, as amended, 5 U.S.C. 81.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) provide summary data of injury, illness, and property loss information to bureau management in a number of formats for analytical purposes in establishing programs to reduce or eliminate loss producing problem areas. (b) provide listings of individual cases to Bureau management to insure that accidents occurring are reported through the Bureau Safety Management Information System for fowarding to the Department of the Interior Safety

Management Information System and (c) adjudicating tort and employees claims. Disclosure outside the Bureau of Mines may be made (1) to a Federal, State or local government agency that has partial or complete jurisdiction over the claim or related claims; (2) to provide the Department of Labor through the Department of the Interior quarterly summary listings of fatalities and disabling injuries and illnesses in compliance with 29 CFR 1960.6; (3) to the U.S. Department of Justice, when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of statute, regulation, rule, order or license, to appropriate Federal, State or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; and (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in book format and file folders.

RETRIEVABILITY:

Listed by name or control number of the individual.

SAFEGUARDS:

Security is provided to meet the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Upon completion of work project or employee separation, health records are transferred to the Official Personnel Folder. Source documents are to be retained at the field level for five years following the end of the calendar year to which the record relates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Safety Management Staff, U.S. Bureau of Mines, 2401 E Street, NW., Washington, D.C. 20241.

NOTIFICATION PROCEDURE:

To determine whether records are maintained on you in this system, write to the System Manager. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access should be addressed to the System Manager. Describe as specifically as possible the records sought. If copies are desited indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request correction or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Supervisors of employees involved in accidents. Investigative reports by supervisors, safety professionals or other management officials or any combination thereof. Additionally, physicans generate health records on employees.

INTERIOR/EBM–7

SYSTEM NAME:

Personnel Security Files—Interior, Mines—7.

SYSTEM LOCATION:

U.S. Bureau of Mines, Department of the Interior, 2401 E Street, NW., Washington, D.C. 20241.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mines employees and former employees whose duties have been designated critical-sensitive and noncritical sensitive for national security purposes and/or whose duties have been designated ADP–I, II and III. Executive Reservists whose duties have been designated critical-sensitive and noncritical sensitive.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains a record of requirement, basis, level and date of clearance; and a briefing and/or debriefing statement, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended, Executive Order 11179, as amended, and Federal Personnel Manual 732.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

The primary use of the records is to identify individuals who have national security clearances and/or ADP access clearances and their level of clearance. Disclosures outside the department of the Interior may be made (1) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (2) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in a safe having a three-position dail-type, manipulation proof, combination lock, in the same manner as defense classified material.

RETENTION AND DISPOSAL:

Records are held in active status until the individual is debriefed or terminated. Records are destroyed by fire, shredder, disintegrator or pulverizer not later than five years after separation or transfer of the individual or upon notification of death.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, U.S. Bureau of Mines, 2401 E Street, NW., Washington, D.C. 20241.

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To see your records write the System Manager. Describe as specifically as possible the records sought. If copies are desired indicate the maximum your are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request correction or the removal of material from your files, write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained as well as data furnished by other Federal agencies on the person concerned.

[FR Doc. 83-26971 Filed 10-3-83; 8:45 am]
BILLING CODE 4310-53-M

Bureau of Land Management

[INT-FEIS 83-47]

Idaho Falls and Salmon Districts, Big Lost-Mackay Grazing Final Environmental Impact Statement; FEIS Availability

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement (FEIS) for proposed range management programs in the Big Lost and Mackay Units. The FEIS is in abbreviated format containing responses to comments received by letter and at two open houses. The abbreviated FEIS should be used with the Draft EIS made available for public review April 29, 1983. The Big Lost-Mackay FEIS analyzes the effects of livestock grazing on 310,962 acres of public land in Central Idaho. Five grazing management alternatives are analyzed in terms of their projected economic, social and environmental effects. Each alternative analyzes a different level of forage use, methods by which livestock grazing would be managed, and support facilities (such as water developments, fences, and brush control). Based on comments received and agency considerations, a new alternative, Alternative E, is developed and analyzed in the FEIS. Alternative E is selected as the preferred alternative. No action can be taken for at least 30 days following filing of this statement with the Environmental Protection Agency and distribution to the public. Copies of the FEIS are available for review at the following locations:

Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: (208) 529–1020

Salmon District Office, Bureau of Land Management, U.S. Highway 93, Salmon, Idaho 83467, Telephone: (208) 756–2201

Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706, Telephone: (208) 334–1770

Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street, Washington, D.C. 20240, Telephone: (202) 343–9435

FOR FURTHER INFORMATION CONTACT:

O'dell A. Frandsen or Donald Watson, Bureau of Land Management, 940 Lincoln Road, Idaho Falls Idaho 83401, Telephone: (208) 529–1020.

Dated: September 16, 1983.

Larry L. Woodard,

Associate State Director, Idaho.

[FR Doc. 83-27006 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-84-M

[UT-910-4310-84]

Utah; Grazing Management Program for Tooele Planning Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and a 1975 Federal Court ruling, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Tooele grazing management program in Tooele and small portions of Juab, Box Elder, Utah, and Salt Lake Counties.

The Final EIS is an abbreviated edition to be used with the Draft EIS. The EIS examines four alternative management programs: (1) Proposed Action—No Action, (2) Emphasize Wildlife Habitat, (3) Emphasize Livestock Forage, and (4) Preferred Alternative—Balanced Use. The objective of the alternatives is to provide land use management on the basis of multiple use long-term sustained yield of the natural resources on 1.5 million acres of public land.

The alternatives examine proposed levels of grazing use ranging from 87,327 to 119,835 animal unit months (AUMs) for livestock and from 31,683 to 36,491 AUMs for big game. Rangeland improvements would accompany the proposed levels of forage use in alternatives 2, 3 and 4.

Copies of the Final EIS will be available on or after September 30, 1983 from the Salt Lake District BLM Office at 2370 South 2300 West, Salt Lake City, Utah 84119. Public reading copies of the Final EIS will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C.

Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah

Decisions on the grazing management program will not be made until 30 days after the Final EIS is published. Written comments on the Final EIS may be submitted to be considered in the decision-making process to the Salt Lake District Manager at the above-mentioned address by October 30, 1983.

Dated: September 16, 1983.

Frank W. Snell,

District Manager.

[FR Doc. 83-27005 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-84-M

Salt Wells-Pilot Butte Grazing Final Environmental Impact Statement (FEIS), Sweetwater and Uinta Counties, Rock Springs District, Wyoming; Availability of Final Environmental Impact Statement and Public Comment Schedule

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of Final Environmental Impact Statement and public comment schedule.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, Notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental impact statement for a livestock grazing management program in the Salt Wells-Pilot Butte area, Sweetwater and Uinta Counties, Wyoming, and has made copies available for public review and comment.

The Bureau of Land Management proposes to implement a grazing management program based on the land use planning for the area and in accordance with the Bureau's Rangeland Management Policy and Rangeland Improvement Policy. The proposed livestock grazing management program includes "improvement" management for eighteen allotments totalling 1,006,929 acres; "maintenance" management for five allotments totalling 2,166,010 acres; and "custodial" management for seven allotments totalling 9,343 acres. Proposed range improvements include water developments, vegetation treatment, and some new fences. Other major components of the program include wild horse management, provisions for wildlife habitat, and range monitoring.

The final environmental impact statement completes the analysis of the projected environmental consequences of implementing the proposed action or any ge a04oc3.032of four alternatives, and considers public comments received on the draft environmental statement. The alternatives—specifically titled: Continuation of the Existing Situation (No Action); Emphasize Livestock Production; Emphasize Watershed, Wildlife Habitat, and Soil Stability; and License No Livestock Use on Public Lands—portray the range of the options

available for managing the livestock use in the area.

DATES: Written comments on the content of the final environmental impact statement and the proposed Management Framework Plan decisions will be accepted through the close of business October 31, 1983.

ADDRESSES: Written comments are to be addressed to: Jim Cagney, Team Leader, Bureau of Land Management, Salt Wells Resources Area, 79 Winston Drive, P.O. Box 1170, Rock Springs, Wyoming 82902–1869.

A limited number of single copies of the draft and final environmental impact statements may be obtained at the above address or at the BLM Rock Springs District Office, telephone (307) 382–5350. The environmental impact statement is also available for inspection at the following locations:

Bureau of Land Management, Rock Springs District Office, U.S. Highway 191 North, Rock Springs, Wyoming, and

Bureau of Land Management, Wyoming State Office, Public Information Desk, 2515 Warren Avenue, Cheyenne, Wyoming

SUPPLEMENTARY INFORMATION: Comments on the grazing management proposal and on the environmental impact statement will be considered in preparation of the final Management Framework Plan decisions. The BLM will prepare a Rangeland Program Summary for the area within five months of this publication.

Donald H. Sweep,

Rock Springs District Manager.

[FR Doc. 83-27004 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-84-M

[NM 52963]

Realty Action; Direct Sale of Public Lands in Dona Ana County, New Mexico

The following described lands have been examined and identified as suitable for disposal for sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value.

T. 19 S., R. 4 W., NMPM
Section 28: S½NW¼,
SW¼ (that portion north of State Road 26)

The above described lands aggregates approximately 135 acres in Dona Ana County, New Mexico.

This land is being offered as a direct non-competitive sale to the Village of Hatch, New Mexico at the appraised fair market value.

The sale of this land to the Village of Hatch will serve important public objectives, including potential economic development in northern Dona Ana County. The proposed sale is in conformance with the existing Southern Rio Grande Planning Area MFP completed in 1982 and the public interest will best be served by offering these lands for direct sale to the Village of Hatch.

The above described lands will be offered for direct sale upon determination of the appraised fair market value. In no event will the lands be offered sooner than 60 days from the date of this notice.

The terms and conditions applicable to the sale are:

1. The patent will be subject to all valid existing rights.

2. Twenty percent (20%) of the appraised fair market value must be submitted on offer date. The remainder of the total purchase price for the land will be due 30 days from the offer date.

3. Those rights granted by a term permit for grazing lease number 6035, which affect the subject land, will be terminated February 28, 1986.

4. No range improvements will be affected by the subject action.

5. The subject sale is a one-time offer. These lands will not be reoffered.

The environmental assessment/land report is available for review at the Las Cruces/Lordsburg Resource Area Office, 1705 N. Valley Drive, Las Cruces, New Mexico 88001. For a period of 45 days from the date of this Notice, interested parties may submit comments to the Area Manager, Las Cruces/Lordsburg Resource Area, P.O. Box 1420, Las Cruces, New Mexico 88004. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: September 20, 1983.

William J. Harkenrider, Jr.,

Area Manager, Las Cruces/Lordsburg Resource Area.

[FR Doc. 83-26972 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Availability of Revised San Juan River Regional Coal Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a revised draft environmental impact statement (DEIS) analyzing: (1) The proposed 1984 competitive coal lease sale in the San Juan River Coal Region, and (2) the 26 preference right lease applications (PRLAs) in the San Juan Basin.

DATES: Written comments on the revised DEIS should be submitted by November 21, 1983. A public hearing is scheduled for November 8, 1983.

ADDRESS: For single copies of the revised DEIS: Albuquerque District Office, Bureau of Land Management, 505 Marquette NW., Suit 815, Albuquerque, New Mexico 87102. Send written comments on the revised Draft EIS to State Director, Bureau of Land Management, Caller Service 4104, Farmington, New Mexico 87401.

FOR FURTHER INFORMATION CONTACT: Lee Larson, Farmington Resource Area Headquarters, P.O. Box 568, Farmington, New Mexico 87401, Tel. (505) 325–3581.

SUPPLEMENTAL INFORMATION: The San Juan River Regional Coal DEIS has been revised to include the proposed action on the 26 PRLAs. It analyzes: (1) No Action, expected development if no Federal coal is leased, (2) Preference Right Lease Issuance, issuing noncompetitive leases for 1.15 billion tons of recoverable Federal coal (1.4 billion tons inplace) from 26 PRLAs, and (3) two subalternatives: (A) Alternative Lease Terms, which discusses possible alternative mitigation measures, and (B) Exchange, which would exchange all or some of the preference right leases (if issued), if it is determined that coal mining would not be in the public interest. The Preference Right Lease Issuance Alternative, which includes appropriate stipulations, is the preferred alternative for this proposed action.

Five alternatives are again presented for the proposed competitive leasing: (1) No Action, which includes the preference Right Lease Issuance Alternative, (2) Bypass Alternative, with 113 million tons of recoverable Federal coal (129 million tons inplace) from eight tracts, (3) Minimum Surface Owner Conflicts Alternative, with 349 million tons recoverable (916 million tons inplace) from 11 tracts, (4) Target alternative, with 700 million tons recoverable (1.32 billion tons inplace) from 24 tracts, and (5) High Alternative, with (1.09 billion tons recoverable (1.94 billion tons inplace) from 39 tracts. The Minimum Surface Owner Conflicts

Alternative is the preferred alternative for competitive leasing. Single copies of the revised DEIS may be obtained from the BLM Albuquerque District Office, at the address given above. Review copies are located at the following offices:

New Mexico State Office, Bureau of Land Management, Joseph M. Montoya Federal building, South Federal Place, Santa Fe, New Mexico 87501.

Farmington Resource Area Headquarters, Bureau of Land Management, 900 La Plata Road, Farmington, New Mexico 87401.

Taos Resource Area Headquarters, Bureau of Land Management, Montevideo Plaza, Taos, New Mexico 87571.

Socorro District Office, Bureau of Land Management, 198 Neel Avenue, Socorro, New Mexico 87801.

Albuquerque Public Library, 501 Copper Avenue NW., Albuquerque, New Mexico 87102.

Aztec Public Library, 201 East Chaco, Aztec, New Mexico 87401.

Crownpoint Community Library, c/o Lioness club, Crownpoint, New Mexico 87313.

Cuba Public Library, Cuba, New Mexico 87027.

New Mexico State University/Grants, 1500 Third Street, Grants New Mexico 87020.

New Mexico Highlands University, Donnelly Library, National Avenue, Las Vegas, New Mexico 87701.

College of Santa Fe, Fogelson Memorial Library, St. Michael's Drive, Santa Fe, New Mexico 87501.

Colorado State University, Fred Schmidt CSU Library, Fort Collins, Colorado 80523.

A limited number of copies is also available at te Office of Public Affairs, Bureau of Land Management, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

A public hearing on the revised DEIS, including potential impacts and committed and proposed mitigation measures, has been scheduled for November 8, 1983, at the Farmington Civic Center, Farmington, New Mexico, beginning at 9:00 a.m. and again at 7:00 p.m. The State Director, New Mexico invites oral and written comments at that time. Written comments may also be submitted to the State Director at the Farmington address by close-of business November 21, 1983.

Oral testimony will be limited to ten (10) minutes for each witness at the hearing. Additional time may be granted at the discretion of the presiding officer based on the number of speakers registered. The testimony time limitations will be strictly enforced by the presiding officer. Written texts of prepared speeches may be filed at the hearing whether or not the speaker has been able to complete the oral delivery in the allotted time.

Anyone wishing to speak is asked to sign the witness register in person before either hearing session begins. A witness representing an organization must identify the organization on the witness register. Only one witness will be allowed to represent the viewpoints of any organization. After the last registered witness has been heard, the presiding officer will consider the request of any other person present who wishes to testify, subject to the above conditions.

All oral and written comments on the adequacy of the revised DEIS will receive consideration in the final EIS.

Dated: September 26, 1983.

Robert F. Burford,

Director.

Dated: September 27, 1983.

Garrey E. Carruthers,

Assistant Secretary for Land and Water Resources.

[FR Doc. 83-26976 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf Oil and Gas Lease Offerings; List of Restricted Joint Bidders

This notice supersedes the List of Restricted Joint Bidders published in the **Federal Register** on April 12, 1983, at 48 FR 15795. Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf Oil and Gas Lease Offerings to be held during the bidding period of November 1, 1983, through April 30, 1984.

Group I: Chevron U.S.A. Inc.; Standard Oil Company of California.

Group II: Exxon Corporation.

Group III: Mobil Oil Corporation; Mobil Oil Exploration & Producing Southeast Inc.; Mobil Producing Texas & New Mexico Inc.

Group IV: MTS Limited Partnership (Mesa Petroleum Co., Texaco Inc., and Sequoia Petroleum Inc.); Texaco Inc.

Group V: Shell Offshore Inc.; Shell Oil Company; Shell Western E & P Inc.

Dated: September 26, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

[FR Doc. 83-26969 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 23, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 19, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

DeKalb County

Mentone, *Mentone Springs Hotel,* AL 117

ARIZONA

Mohave County

Moccasin, *Big House,* Main Rd.

CALIFORNIA

Orange County

Fullerton, *Fullerton Union Pacific Depot,* 100 E. Santa Fe Ave.

CONNECTICUT

Hartford County

Hartford, *Polish National Home,* 60 Charter Oak Ave.

KENTUCKY

Warren County

Bowling Green vicinity, *Walnut Lawn (Warren County MRA),* W of Bowling Green on Morgantown Rd.

MAINE

Kennebec County

Vassalboro vicinity, *Leach, Philip, House,* Hussey Hill Rd.

Somerset County

Skowhegan, *Skowhegan Fire Station,* Island Ave.

Waldo County

Northport vicinity, *Cobe Estate,* N of Northport on Bluff Rd.

NEW MEXICO

Rio Arriba County

Los Luceros vicinity, *Los Luceros Hacienda*, Off NM 389

PUERTO RICO

San Juan County

Puerta de Tierra, *Biblioteca Carnegie*, Ponce de Leon Ave.

Santurce, Administration Building

[FR Doc. 83-27033 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

[INT-FES 83-49]

McGee Creek Project, Oklahoma; Availability of Final Supplement to Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final supplement to the final environmental statement for the McGee Creek Project. This supplement addresses two recent plan changes for development of the project. One change addresses land acquisition policy changes required by Pub. L. 97-88. Under the law, mineral rights will be acquired on a majority of project lands by subordination instead of fee purchase, thereby allowing mineral (oil and gas) development on project lands. The supplement also addresses alternatives including a Bureau of Reclamation (Bureau) proposed plan which would include fee purchase of lands required for the dam, dike, and other authorized permanent feature areas and fee purchase or subordination with no surface occupancy for the reservoir (to top of flood control pool) and the entire Natural Scenic Recreation Area. The Bureau proposed plan would also protect all other project lands by subordination of minerals to allow drilling under Bureau protective stipulations. Another plan change addresses modification to the proposed fishing/recreation corridor from 4.7 miles to 1.2 miles below McGee Creek Dam.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240. Telephone: (202) 343-4991.

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, Colorado 80225. Telephone: (303) 234-3019.

Regional Director, Bureau of Reclamation, Suite 201, 714 South Tyler, Amarillo, Texas 79101. Telephone: (806) 378-5463.

McGee Creek Project Office, P.O. Box 71, Farris, Oklahoma 74542. Telephone: (405) 889-6427.

Oklahoma Representative, Bureau of Reclamation, Suite 560, 50 Penn Place, Oklahoma City, Oklahoma 73118. Telephone: (405) 231-4515.

Single copies of the supplement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director, at the above address. Copies will also be available for inspection in libraries within the project area.

Dated: September 28, 1983.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 83-27040 Filed 10-3-83; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-145 (Preliminary)]

Certain Steel Valves and Certain Parts thereof From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that 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 from Japan of wedge gate, swing check, and globe valves, and certain parts of the foregoing,[1] of steel, provided for in item 680.17 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: September 22, 1983

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth, U.S. Internal Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0289.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on September 22, 1983, by counsel for the Valve Manufacturers Association Fair Trade Council and for eleven U.S. producers. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by November 7, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) 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.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth section 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth in the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before October 19, 1983, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

[1] The term "certain parts" covers valve bodies and partially completed valves consisting of valve bodies imported with one or more of the following parts: bonnet, stem, wedge, handle, or seat rings.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on October 17, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Abigail Eltzroth (202–523–0289), not later than October 13, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions except for confidential business data, will be available for public inspection during regular 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.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts, a through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: September 29, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-27017 Filed 10-3-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395–7313.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Motor Carrier of Passengers
OMB Form No.: 3120–0105
Agency Form No.: None
Frequency: Quarterly—Annually
Respondents: Motor Carriers of Passengers with Revenues over $3 million
No. of Respondents: 68
Total Burden Hrs.: 9,248

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Motor Carrier of Property
OMB Form No.: 3120–0106
Agency Form No.: None
Frequency: Quarterly—Annually
Respondents: Motor Carriers of Property with Revenues over $1 million
No. of Respondents: 2,868
Total Burden Hrs.: 404,388

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Railroads
OMB Form No.: 3120–0107
Agency Form No.: None
Frequency: Quarterly—Annually
Respondents: Railroads with Revenues over $50 million
No. of Respondents: 39
Total Burden Hrs.: 51,480

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Service Life Study
OMB Form No.: 3120–0037
Agency Form No.: ACV–159
Frequency: Annually
Respondents: All Class I Railroads
No. of Respondents: 39
Total Burden Hrs.: 1,560

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Request for Extension of Emergency Temporary Authority
OMB Form No.: 3120–0099
Agency Form No.: OP–TA–19/OP–TA–19(a)
Frequency: On occasion
Respondents: Motor carriers granted emergency temporary authority for 30 days who wish to extend that authority
No. of Respondents: 350
Total Burden Hrs.: 175

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-26991 Filed 10-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-21)]

State Intrastate Rail Rate Authority; New Jersey

AGENCY: Interstate Commerce Commission.

ACTION: Assumption of Commission Jurisdiction over New Jersey Intrastate Rail Transportation.

SUMMARY: Pursuant to a request from the New Jersey Department of Transportation (NJDOT), the Commission will assert jurisdiction over intrastate freight rates in New Jersey and vacate the provisional certification of NJDOT.

EFFECTIVE DATE: October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 338, *State Intrastate Rail Rate Authority Pub. L. 96–448*, 47 FR 5786, served February 8, 1982, the Commission extended provisional certification pursuant to 49 U.S.C. 11501 to 36 States, including New Jersey, in order to allow each State additional time to submit standards and procedures which confirm the State's intention to exercise its jurisdiction in conformance with federal law.

In a letter dated August 4, 1983, NJDOT states that it will not seek final certification to regulate intrastate freight rates. NJDOT specifically requests that this Commission exercise jurisdiction over New Jersey's intrastate railroad freight rates.

We are assuming jurisdiction over New Jersey intrastate rates. At the same time, NJDOT's provisional certification to regulate intrastate rates is terminated. Rail carriers in New Jersey shall comply with Commission regulations including the filing of intrastate tariffs with the Commission. Parties that wish to continue litigating cases that were pending before NJDOT shall advise Deputy Director Louis E. Gitomer, Rail Section, Office of Proceedings. In the case of pending state section 229 cases, parties shall consult immediately with Chief Administrative Law Judge David Allard. In this way, we will develop, with the parties, appropriate steps in each case to transfer the records and establish procedural schedules.

This decision does not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 11501.

Decided: September 27, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-28002 Filed 10-3-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Keystone Steel and Wire Co., et al.

In accordance with Section 223 of the Tade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 19, 1983–September 23, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,476; Keystone Steel & Wire Co., Bartonville, IL

TA–W–14,168; Ameron, Inc., Ameron Steel & Wire Div., Etwanda, CA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,437; Chevron U.S.A., Inc., Perth Amboy, NJ

TA–W–14,504; Mergenthaler Linotype Co., Willsboro, PA

TA–W–14,505; Mergenthaler Linotype Co., Mansfield, PA

Affirmative Determinations

TA–W–14,472; Brown Shoe Co., Leachville, AR

A certification was issued covering all workers separated on or after March 2, 1982.

TA–W–14,442; Publix Shirt Corp., Hazelton, PA

A certification was issued covering all workers separated on or after October 1, 1982.

TA–W–14,446; Centre Engineering, Inc., State College, PA

A certification was issued covering all workers separated on or after February 10, 1982.

TA–W–14,606; Oregon Steel Mills, Div. of Gilmore Steel Corp., Portland, OR

A certification was issued covering all workers separated on or after April 18, 1982.

TA–W–14,478; New York Wire Mills Div. of Niagara Lockport Industries, Inc., Tonawanda, NY

A certification was issued covering all workers producing steel nails separated on or after March 2, 1982.

A certification was issued covering all workers producing wire & wire products (other than nails) separated on or after January 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period September 19, 1983–September 23,1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 27, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-27041 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M–83–92–C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Behtlehem Mines Corporation, Room 1871, Martin Tower, Bethlehem, Pennsylvania 18016 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Mine No. 108 (I.D. No. 46–03887) located in Upshur County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake aircourses be separated from belt haulage entries.

2. Petitioner seeks a modification of the standard to permit specified belt entries to be used as intake aircourses during longwall development and extraction.

3. As an alternate method, petitioner proposes to install low-level carbon monoxide monitoring devices in various belt entries. In support of this proposal, petitioner states that the monitors will be:

a. Located to monitor the air at each belt drive tailpiece, at intervals not to exceed 3,000 feet along the belt conveyor, and other locations required by the District Manager;

b. Capable of providing visual and audible alarm signals, and capable of giving a warning automatically when the level of carbon monoxide at any specified location exceeds 5 ppm above the ambient level of the mine;

c. Capable of identifying any activated sensor within the belt haulage entry. This system will have a map or schematic drawing to identify all monitoring locations;

d. Capable of initiating fire alarm signals at an attended location on the surface where personnel on duty have two-way communications with all persons who may be endangered. The signals will be activated when the level of carbon monoxide exceeds 10 ppm above the ambient level of the mine. The person(s) stationed on the surface will be trained in the operation of the monitoring system, and will take appropriate action in the event of an emergency;

e. Visually examined at least once every 24 hours to ensure proper operation; inspected and maintained by a qualified person at least once every seven days; and calibrated with known quantities of carbon monoxide/air mixtures at least once every 30 days. An inspection record will be maintained on the surface to record the results of each weekly and monthly examination.

4. Should the monitoring system be de-energized because of power outages or routine maintenance, petitioner further proposes that the belt conveyor continue to operate and that the belt entry be continuously patrolled and monitored by a qualified person with carbon monoxide detector tubes or the equivalent.

5. The velocity of air in the belt entry will not exceed 300 feet per minute.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983.

Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27052 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-87-C]

Dorchester Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Dorchester Coal Company, United Bank of Arapahoe Bldg., Suite 300, 9350 East Arapahoe Road, Englewood, Colorado 80112 has filed a petition to modify the application of 30 CFR 77.803 (fail safe ground check circuits on high-voltage resistance grounded systems) to its Dorchester No. 1 Mine (I.D. No. 05-03455) located in Fremont County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all high-voltage, resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or ground check wire is broken.

2. Petitioner seeks a modification of the standard ot eliminate the presently used ground check circuit installed on a 5 KV aerial (pole) power line which is approximately 3,600 feet in length and consists of three 336.4 MCM phase conductors, one 336.4 MCM ground conductor, and one No. 4 AWG aluminum conductor. This power line originates at the main substation and terminates at a secondary substation at the mine complex.

3. This line is subjected to frequent induced voltages from local weather disturbances, switching surges, and other undetermined causes. These disturbances and subsequent ground monitor failures result in tripping of the primary surface power, which supplies power to the ventilation fans.

4. As an alternate method, petitioner proposes to perform earth resistance testing of safety ground grids at three month intervals and keep a record of such values available at the mine site. Resistance values for the safety ground grids will be maintained at three ohms or less at all times. The pole-mounted ground conductor will be visually inspected weekly to further ensure the integrity of the grounding system.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27050 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-20-M]

FMC Corp.; Petition for Modification of Application of Mandatory Safety Standard

FMC Corporation, Box 872, Green River, Wyoming 82935 has filed a petition to modify the application of 30 CFR 57.21-40 (methane) to its Green River Mine (I.D. No. 48-00152) located in Sweetwater County, Wyoming. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statements follows:

1. The petition concerns the requirement that until methane is reduced to 1.0 percent or less, all persons be withdrawn from an area where there is a methane concentration of 1.5 percent or higher in air returning from underground working places, or in air not less than 12 inches from the back, face or ribs of an underground working place.

2. Petitioner's mine is a large underground trona mining and refining operation. Petitioner has initiated a longwall mining system and installed a longwall shearing machine. Petitioner states that 30 CFR 57.21-40 does not specifically address the condition of methane levels in bleeder systems ventilating the gob areas associated with longwall mining methods because the standard addresses working places.

3. As an alternate method, petitioner proposes that during longwall mining where a bleeder system of entries is being used and maintained for ventilation of the gob areas, the methane content of the air current in the bleeder split at the point where such split enters any other split shall not exceed 2.0 volume percent.

4. In support of this proposed alternate method, petitioner states that once mining has started and the gob areas begin to develop, there is no way to determine the density or tightness of the gob or to predict the rate of methane generation that will be experienced from breaking of the overlaying strata. Changes in barometric pressure or fan speeds could have an effect on the volume of air sweeping methane from the gob and the amount of methane could fluctuate. The varying percentages of methane should be removed through controlled access bleeders directly to the return system.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27051 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-69-C]

J & J Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

J & J Coal Company, Inc., Box 295, Haysi, Virginia 24256 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 44-05879) located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs and canopies be installed on the mine's electric face equipment.

2. The mine is located in the Widow Kennedy coal seam, which ranges from 36 to 72 inches in height. The roof and floor are very undulating with very abrupt changes in grade.

3. Petitioner states that the use of canopies on the mine's roof bolters would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof supports. The canopies would also be weakened by constant contact with the roof, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27053 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-86-C]

Consolidation Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Ireland Mine (I.D. No. 46-01438) located in Marshall County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. A 500 KW Ohio Brass Rectifier is located in the 3 North sub-main. The airway to which this rectifier is now ventilated was developed from October 1968 to October 1969, and has deteriorated, making ventilation of the rectifier difficult.

3. As an alternate method, petitioner proposes to enclose the rectifier in a fireproof structure (cement block walls, metal doors and incombustible roof and floor) equipped with an automatic fire suppression device activated by heat sensors. In support of this proposed alternate method, petitioner states that:

a. The rectifier will have ventilation openings which will close automatically in the event of a fire;

b. No combustible material will be stored within the enclosure;

c. Electrical circuits will comply with applicable standards in 30 CFR Part 75;

d. A warning light, integrated with the fire suppression device, will be installed in a location adjacent to the haulage track or a location readily observed by persons working nearby; persons regularly working in this area will be instructed as to the purpose of the light and appropriate action to be taken if the light is activated;

e. Inspection of the installation will be made to comply with applicable standards in 30 CFR Part 75; and

f. Firefighting equipment will be provided on the outside of the fireproof sturcture as required by 30 CFR 75.1100-2(e).

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27043 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-72-C]

Eastern Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Coal Corporation, P.O. Box 219, Stone, Kentucky 41567 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Pegs Branch Mine (I.D. No. 15-09866) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal mine height in Section 001 ranges from 38 to 63 inches, with an average height of 53 inches. Mining height varies from 36½ to 61½ inches, with an average height of 51½ inches. The coal mine height in Section 002 ranges from 39 to 70 inches, with an average height of 50 inches. Mining height ranges from 37½ to 68½ inches, with an average height of 48½ inches. Roof conditions are generally good. Undulations, dips and rolls have been encountered numerous times in the coal seams.

3. Petitioner states that the installation of canopies on the equipment in mining heights 50 inches and below would result in a diminution of safety because the canopy could strike and dislodge the roof supports as well as damage suspended cables, increasing shock and fire hazards. The canopies limit the equipment operator's visibility, forcing the operators to lean out from under the canopy, exposing body parts to potential injury. The canopies also cause a cramped operating position, resulting in operator fatigue, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All

comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27048 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-90-C]

Emery Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Emery Mining Corporation, P.O. Box 310, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Deer Creek Mine (I.D. No. 42-00121) located in Emery County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. The return split of air from 8th East to 2nd East adjacent to the 1st South mains is used only to ventilate seals installed in the seven panels where all mining has been completed. The floor has heaved severely in most of the areas and numerous roof falls have occurred, rendering most of the area inaccessible and unsafe to travel.

3. As an alternate method, petitioner proposes to establish two measuring stations, one located where the air enters the area at 8th East and the other immediately out by 2nd East. These air measuring stations will be maintained in safe condition at all times. The quantity, quality and direction of air flow and methane content will be determined at each station on a weekly basis by a certified person.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27046 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-89-C]

Maple Meadow Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Maple Meadow Mining Company, c/o Cannelton Industries, 1250 One Valley Square, Charleston, West Virginia 25301 has filed a petiton to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Maple Meadow Mine (I.D. No. 46-03374) located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. The right side airway in the old 2119 section, despite the installation of maximum roof supports, is unsafe to travel because of deteriorating roof conditions.

3. As an alternate method, petitioner proposed to establish monitoring stations at the mouth of 14 Butt and at the return junction of 2119-2123 sections to conduct air reading and visual examinations on a weekly basis. A record of the air readings and examinations will be maintained in an approval record book. The readings and examinations will be made by a certified person.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27047 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-85-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 301 North Memorial Drive, St. Louis, Missouri 63102 has filed a petition to modify the application of 30 CFR 75.1100-2(a) (quantity and location of firefighting equipment) to its Ken No. 4 Mine (I.D. No. 15-02079) located in Ohio County, Kentucky, its Sinclair No. 2 Mine (I.D. No. 15-07166), Star North Mine (I.D. No. 15-03161), Star South Mine (I.D. No. 15-11265), Graham Hill No. 2 Mine (I.D. No. 15-12333), Graham Hill No. 3 Mine (I.D. No. 15-13283), all located in Muhlenberg County, Kentucky and its Camp No. 1 Mine (I.D. No. 15-02709) and Camp No. 11 Mine (I.D. No. 15-08357), both located in Union County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977. A summary of the petitioner's statements follows:

1. The petition concerns the requirement that water lines be present at each section's loading point and be equipped with a fire hose to reach the working face.

2. Petitioner states that access to such water lines is hampered by the distance between the working face and the loading point, which may reach as much as 500 feet. Keeping the hose on a reel at the loading point makes it difficult for the hose to be inspected since it must be taken off the reel and visually inspected. The water hose is not regularly used; therefore, its condition may deteriorate between inspections.

3. As an alternate method, petitioner proposes to use the high-pressure water hose to the continuous miners as fire protection devices at the working face. In support of this proposed alternate method, petitioner states that:

a. Continuous miners are the principal method of coal extraction at each mine. Each continuous miner is equipped with a water hose spray system designed to suppress dust generated by extraction;

b. The water used by the spray system is supplied by a high-pressure hose with a bursting pressure of 4,000 pounds per square inch;

c. Because the continuous miner is always in the vicinity of the working face, miners would have immediate

access to the continuous miner, and it can reach every area of the working face;

d. There is a constant check on the supply of water. If the water supply should cease, the continuous miner will cease to operate;

e. Individual miners at the working face are familiar with the continuous miner and access to the water supply;

f. Fire fighting instruction using the continuous miner water supply will be incorporated in each mine's regular program of safety instruction with specific emphasis on fire fighting.

4. Petitioner states that the alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27045 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-39-C]

Pyro Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Pyro No. 9 Wheatcroft Mine (I.D. No. 15-13920) located in Webster County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal ranges from 48 to 51 inches in height with undulations in the roof and unstable floor conditions, and ascending and descending grades, creating dips.

3. Petitioner states that the installation of canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike the roof or roof support system. The canopies also cause the equipment operator to work in a cramped compartment which limits visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27044 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-81-C]

Rapoca Energy Co.; Petition for Modification of Application of Mandatory Safety Standard

Rapoca Energy Company, Norton Coal Division, Route 1, Box 80, Nora, Virginia 24272 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles, general) to its Nora Preparation Plant (I.D. No. 44-05498) and the Fleetwood Coal Company's No. 1 Mine (I.D. No. 44-05717), both located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that refuse piles not be located over mine openings.

2. As an alternate method, petitioner proposes to cover a set of mine openings with the shell of the refuse fill. The mine openings will be sealed with mine plugs which are designed to provide a safe barrier between the refuse and the coal bed and to ensure proper drainage from the mine workings.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1983. Copies of the petition are available for inspection at that address.

Dated: September 27, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-27049 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-43-M

Wage and Hour Division

Certificates Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Administrative Order No. 1-76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

The following normal labor turnover certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended).

Big River Mfg. Co., Kittanning, PA; 8-31-83 to 8-30-84; 10 percent of the total number of factory production workers. (Boys' shirts)

Bland Sportwear, Inc., Bland, VA; 7-24-83 to 7-23-84; 10 learners. (Men's and boys' shirts)

The following normal labor turnover certificates were issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35, as amended.)

Junior Form Lingerie, Inc., Boswell, PA; 8-23-83 to 8-22-84; 5 percent of the

total number of factory production workers. (Ladies' underwear and sleepwear)

Louis Gallet, Inc., Uniontown, PA; 6-22-83 to 6-21-84; 5 learners. (Ladies' sweaters)

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum wages is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before October 19, 1983.

Signed at Washington, D.C. this 28th day of September 1983.

Arthur H. Korn,

Authorized Representatives of the Administrator.

[FR Doc. 83-27042 Filed 10-3-83; 8:45 am]

BILLING CODE 4510-27-M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

September 28, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Cabot Corporation
Common Stock, $1 Par Value (File No. 7-7097)

Cleveland-Cliffs Iron Company
Common Stock, $1 Par Value (File No. 7-7098)

Ex-Cell-O Corporation
Common Stock, $3 Par Value (File No. 7-7099)

Foxboro Company
Common Stock, $1 Par Value (File No. 7-7100)

General Cinema Corporation
Common Stock, $1 Par Value (File No. 7-7101)

GATX Corporation
Common Stock, $.625 Par Value (File No. 7-7102)

Insilco Corporation
Common Stock, $1 Par Value (File No. 7-7103)

International Multifoods Corporation
Common Stock, $.10 Par Value (File No. 7-7104)

Jostens, Inc.
Common Stock, $.33⅓ Par Value (File No. 7-7105)

Kidde, Inc.
Common Stock, $1.25 Par Value (File No. 7-7106)

Marsh & McLennan Companies, Inc.
Common Stock, $1 Par Value (File No. 7-7107)

Masco Corporation
Common Stock, $1 Par Value (File No. 7-7108)

Midland-Ross Corporation
Common Stock, $5 Par Value (File No. 7-7109)

Nalco Chemical Company
Common Stock, $.75 Par Value (File No. 7-7110)

Peabody International Corporation
Common Stock, $.10 Par Value (File No. 7-7111)

Philips Industries Inc.
Common Stock, No Par Value (File No. 7-7112)

Ponderosa, Inc.
Common Stock, $.10 Par Value (File No. 7-7113)

Sanders Associates, Inc.
Common Stock, $1 Par Value (File No. 7-7114)

Snap-on Tools Corporation
Common Stock, $1 Par Value (File No. 7-7115)

Square D Company
Common Stock, $1.66⅔ Par Value (File No. 7-7116)

Staley Manufacturing Company (A.E.)
Common Stock, No Par Value (File No. 7-7117)

Stanley Works
Common Stock, $2.50 Par Value (File No. 7-7118)

Tracor, Inc.
Common Stock, $.33⅓ Par Value (File No. 7-7119)

Tyco Laboratories, Inc.
Common Stock, $1 Par Value (File No. 7-7120)

U.S. Industries, Inc.
Common Stock, $1 Par Value (File No. 7-7121)

Varian Associates, Inc.
Common Stock, $1 Par Value (File No. 7-7122)

These securities are listed and registed on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 20, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27057 Filed 10-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13537; (812-5623)]

CRA (Commercial Paper) Pty. Limited; Filing of Application

September 27, 1983.

Notice is hereby given that CRA (Commercial Paper) Pty. Limited ("Applicant"), c/o William A. Plapinger, Esq., Sullivan & Cromwell, 125 Broad Street, New York, N.Y. 10004, an Australian Capital Territory corporation, filed an application on August 1, 1983, and an amendment thereto on September 2, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of its provisions.

Applicant states that it was incorporated under the laws of the Australian Capital Territory on July 5, 1983, and represents in the application that its sole business will be the issuance and sale of Applicant's prime quality commercial paper notes and the loan of the net proceeds therefrom to CRA Limited ("CRA") and its subsidiaries and affiliates (the "CRA Group"). Applicant states that CRA is incorporated under the laws of the State of Victoria, Australia, and is one of the largest companies in Australia, with 1982 consolidated net sales of nearly $2 billion and consolidated assets of over $6 billion at December 31, 1982. Through its subsidiaries and affiliates, it is a major integrated producer of lead, zinc and aluminum, and produces iron ore, copper, gold and silver concentrates, coal, salt and diamonds. Applicant further states that certain financing activities for the CRA Group are undertaken by CRA Finance Limited ("CRA Finance"), a wholly-owned subsidiary of CRA incorporated under the laws of the Australian Capital Territory, and the net proceeds of the

proposed sale of commercial paper notes by Applicant may be loaned to CRA and other companies in the CRA Group through CRA Finance.

Applicant states that its outstanding capital stock is owned by CRA. Applicant represents that there has not been, and undertakes that in the future there will not be, any public offering of its common shares or of any other equity security of the Applicant.

Applicant proposes to issue and sell prime quality short-term negotiable promissory notes of the type generally referred to as commercial paper ("Notes") in offerings exempt from the registration requirements of the Securities Act of 1933, as amended ("Securities Act"), pursuant to sections 3(a)(2), 3(a)(3) or 4(2) thereof. Applicant states that the Notes will be denominated in United States dollars and will be sold in minimum denominations of $100,000.

Applicant states that the Notes will be supported by a "direct pay," irrevocable letter of credit ("Letter of Credit") issued to a major commercial bank as trustee ("Depository") for the benefit of the holders of the Notes by another major commercial bank or banks ("Bank") with the result that the Notes will have one of the three highest investment grade commercial paper ratings from at least one nationally recognized statistical rating organzation, and United States counsel shall have certified that such rating has been received. Applicant further states that the Depository will be instructed to make a drawing under the Letter of Credit to obtain funds to pay each Note when it matures thus assuring holders of the Notes that they will be timely and completely repaid.

Applicant undertakes not to market any Notes prior to receiving an opinion of United States counsel to the effect that the proposed offering is exempt from the registration requirements of the 1933 Act. Applicant does not request review or approval by the Commission of counsel's opinion regarding the availabilty of such an exemption.

Applicant undertakes to ensure that the Notes will not be offered for sale to the general public, but instead will be sold through one or more commercial paper dealers to institutional investors and other sophisticated entities and investors of the type which ordinarily purchase commercial paper notes. Applicant states that, while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering for sale of the Notes will not be otherwise advertised. Applicant undertakes to ensure that each dealer in the Notes will, at or prior to any sale to an offeree of the Notes, provide to that offeree a memorandum describing the respective business of the Applicant and the Bank and including financial statements of the Bank. Applicant states that the memorandum will include a description of any material differences between the accounting principles applied in the preparation of such financial statements and generally accepted accounting principles applicable to similar companies in the United States.

Applicant states that that memorandum will be at least as comprehensive as those customarily used in offering commercial paper notes in the United States and will be updated from time to time to reflect material changes in the respective business and financial status of the Applicant and the Bank. Applicant consents to having any order granting the relief requested under Section 6(c) of the 1940 Act expressly conditioned upon its compliance with the undertakings regarding disclosure memoranda.

Applicant states that the bank serving as Depository will act as issuing and paying agent for the Commercial Paper Notes. Applicant undertakes, in connection with any issue and sale of the Notes, to appoint irrevocably an agent in the United States upon which process may be served in any action arising out of or based on the Commercial Paper Notes which may be instituted in any state or federal court in the Borough of Manhattan, the City of New York, New York, by any holder thereof, and to consent to the jurisdiction of any such court in respect of any such action.

Applicant asserts that it is not a person of the type intended to be covered by the Act. Applicant represents that it is a special purpose company organized solely to issue and sell the Notes and to advance the net proceeds therefrom to CRA Group companies for use in financing their business operations. Applicant represents that none of the CRA Group companies to which Applicant or CRA Finance would lend the net proceeds from the sale of the Notes is an investment company within the meaning of the Act. Applicant further represents that it will not own or hold any equity securities and will not hold notes or other evidences of indebtedness issued by any person other than a CRA Group company, except for temporary investments in prime quality short-term debt instruments. Applicant states that, other than its capital stock, which has not been and will not be offered publicly, its only outstanding securities will be the Notes and its obligations to the Bank under the Letter of Credit and the related credit and security agreement (which obligations to the Bank will be guaranteed by CRA), and all the net proceeds from the sale of the Notes will be advanced to CRA Group companies.

Applicant maintains that the issuance of an order pursuant to Section 6(c) of the Act would be consistent with the protection of investors. The Notes would be supported by a "direct pay," irrevocable letter of credit issued by the Bank for the benefit of the holders of the Notes, and those holders would be entitled to timely and complete payment at maturity under the Letter of Credit. Applicant states that investors in Commercial Paper Notes would rely on the credit strength of the Bank issuing the Letter of Credit, rather than on that of Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 21, 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. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27054 Filed 10-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23074; (70-6880 and 70-6885)]

General Public Utilities Corp., et al.; Proposed Issuance of Common Stock and of Departure from Tax Allocation Plan

September 27, 1983.

In the Matters of General Public Utilities Corporation, Cherry Hill Fuels Corporation, GPU Service Corporation, GPU Nuclear Corporation, 100 Interpace Parkway, Parsippany, New Jersey 07054; Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road,

Morristown, New Jersey 07960; Metropolitan Edison Company, York Haven Power Company, 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605; and Nineveh Water Company, Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907.

General Public Utilities ("GPU"), a registered holding company, and its subsidiaries, Cherry Hill Fuels Corporation, GPU Service Corporation, GPU Nuclear Corporation, Jersey Central Power & Light Company, Metropolitan Edison Company, York Haven Power Company, Nineveh Water Company, and Pennsylvania Electric Company, have filed an application with this Commission pursuant to Section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45(a) thereunder (File No. 70-6880). GPU has also filed a related declaration under Sections 6(a) and 7 of the Act and Rule 50(a)(5) (File No. 70-6885). These filings are hereby consolidated.

GPU has been a defendant in a class action suit brought by GPU shareholders alleging that defendents failed to disclose publicly the severe financial consequences a nuclear incident would have on GPU. On April 7, 1983, a Stipulation and Agreement of Compromise and Settlement ("Settlement Agreement") was entered into. The Settlement Agreement, which was approved by the United States District Court for the District of New Jersey on September 15, 1983, provides, among other things, that after the Settlement Agreement becomes effective GPU will issue approximately 1.6 million shares of its common stock, $2.50 par value. These shares are to constitute a stock settlement fund for the class. The Settlement Agreement also provides that GPU will deposit $6 million in escrow for the class.

The number of shares is subject to adjustment based on the average closing price of the common stock of GPU, as listed on the New York Stock Exchange—Composite Transactions, for each of the ten business days immediately preceding the Effective Date of the settlement ("Adjustment Price"). If the Adjustment Price is less than $6.50 per share, the number of shares issued will equal $10,400,000 divided by the Adjustment Price. If the Adjustment Price is more than $9.00 a share, the number of shares issued will equal $14,400,000 divided by the Adjustment Price. If the Adjustment Price is $6.50 to $9.00 a share, the number of shares will remain at 1.6 million. At the present time the GPU stock is trading at approximately $9 a share. The 1.6 million shares, if issued, would constitute about 2.6% of the 61,263,654 GPU shares outstanding. GPU does not anticipate that any class member will receive a substantial amount of shares in relation to the total number of shares issued in the settlement.

GPU and its subsidiaries also propose that GPU receive the tax benefits associated with the settlement so as to reduce its cost of the settlement. GPU estimates that the settlement will reduce federal income taxes by about $3.5 million.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 17, 1983 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarant at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27055 Filed 10-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23076; (70-6892)]

Middle South Energy, Inc.; Proposed Short-Term Borrowing

September 27, 1983.

Middle South Energy, Inc. ("MSE"), 225 Baronne Street, New Orleans, Louisiana 70161, a special purpose subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration and amendments thereto with this Commission under Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(2) under the Act.

MSE seeks authorization to issue and sell its unsecured promissory notes or other evidences of indebtedness ("notes") to various commercial banks in an amount not to exceed $225 million outstanding at any one time. The authorization would be effective through May 1, 1985. The notes would mature within 12 months of issuance, be renewable upon approval by the bank, and be prepayable without penalty at the option of MSE. The interest rate for each borrowing will be set by negotiation and may be either a fixed or variable rate not to exceed 200 basis points over the prevailing New York prime rate at the time of borrowing.

MSE does not expect that the outstanding amount of notes will at any time exceed 5% of its total capitalization, including retained earnings. Net proceeds from the sale of the notes will be used to fund MSE's construction program and for other corporate purposes, including repayment of other indebtedness.

The declaration as amended, and any other amendments thereto, are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 24, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so request will be notified of any hearing and will receive a copy of any notice or order issued. After said date, the declaration, as then amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-27056 Filed 10-3-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License Application 04/04-0225]

Blackburn-Sanford Venture Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (SBIC) (13 CFR 107.102(1983)), under the name of Blackburn-Sanford Venture Capital Corp., 3120 First National Tower,

Louisville, Kentucky 40202, for a license to operate as an SBIC under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Name address	Title	Percent of ownership
Mark C. Sanford, 13003 Covered Bridge Road, Prospect, KY 40059.	President, Director.	29.2
William B. Blackburn, 152 Totem Road, Louisville, KY 40207.	Secretary, Treasurer, Director.	29.2
Clifford E. Clark III, 128 North Hite Avenue, Louisville, KY 40206.	Co-Manager.	
Thomas w. Shwab, #2 River Hill Road, Louisville, KY 40207.	Co-Manager.	
John S. Greenebaum, 2233 Douglass Blvd., Louisville, KY 40205.	Director.	8.3
Guy N. Ramsey, Tell City, IN 47586.	Director.	33.3

The Applicant will begin operations with $1,350,000 of private capital. The authorized capital stock of the corporation consists of 36,000 shares of common stock: 1,500 Class "A" (voting) shares, and 34,500 of Class "B" (non-voting) shares. Initially all of the voting, and 12,000 shares of the non-voting, stock will be issued.

Applicant will conduct its operations principally in the State of Kentucky and its contiguous states.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders of the Applicant, and the probability of successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than October 19, 1983, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Louisville, Kentucky.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 27, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 27038 Filed 10-3-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0181]

Cole Capital Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1983)) by Cole Capital Corp. 3154 Mallard Cove Lane, Fort Wayne, Indiana 46804, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et.seq.*).

The proposed officers, directors, and sole shareholder are:

Name and Address	Title	Percent of Ownership
John E. Hogan, 3154 Mallard Cove Lane, Fort Wayne, Indiana 46804.	President/ Director.	
Maclyn T. Parker, 3154 Mallard Cove Lane, Fort Wayne, Indiana 46804.	Secretary/ Director.	
John N. Pichon, Jr, 3154 Mallard Cove Lane, Fort Wayne, Indiana 46804.	Treasurer/ Director.	
ELOC, Inc., 3154 Mallard Cove Lane, Fort Wayne, Indiana 46804.	Sole Shareholder.	100

ELOC, Inc., a non-profit corporation, has no beneficial owner of equity securities. The members of the Board of Directors constitute the members of the corporation. The corporation was organized and will be funded by a grant from the Olive B. Cole Foundation, Inc., a private foundation. A portion of the grant funds will, in turn, be used to capitalize the Applicant.

The Olive B. Cole Foundation, Inc. is located in Fort Wayne, Indiana. The Foundation administers a scholarship program and distributes grants to a variety of organizations as described in Paragraph 1 and 2 of Section 509(a) of the Internal Revenue Code.

The Applicant will begin operations with a capitalization of $740,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Fort Wayne, Indiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 26, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-27037 Filed 10-3-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 06/06/0279]

Retzloff Capital Corp.; Application for a License To Operate As a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Retzloff Capital Corporation, 15000 Northwest Freeway, Houston, Texas 77240.

The officers, directors and stockholders are as follows:

George Martinez, 10510 Cypresswood, Houston, Texas 77070—Chairman of the Board of Directors

A. F. Retzloff, 302 Shadywood, Houston, Texas 77057—Director, Secretary and Treasurer

James K. Hines, 3100 Jeanetta, #201, Houston, Texas 77063—President and Director

Retzloff Industries, Inc., 15000 Northwest Freeway, Suite 310, Houston, Texas 77240—100 Percent

The Steven Floyd Shurtleff Trust, the Retzloff Trust, and A. F. Retzloff own 35.2 percent, 12.6 percent, and 4.5 percent, respectively, of the Common

Stock of Retzloff Industries, Inc. and in the aggregate control Retzloff Industries, Inc.

The Applicant, a Texas corporation, with its principal place of business at 15000 Northwest Freeway, Suite 310A, Houston, Texas 77240, will begin operations with $2,500,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Houston, Texas area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-27039 Filed 10-3-83; 8:45 am]

BILLING CODE 8025-01-M

National Advisory Council; Meeting

The Small Business Administration, Office of Advisory Councils, located in the geographical area of Washington, D.C. will, hold its semi-annual National Advisory Council meeting from 4:00 P.M. on Wednesday, October 26, 1983 to 3:00 P.M. Friday, October 28, 1983, at the Monterey Holiday Inn, in the La Grande and Point Rooms, 2600 Sand Dunes Drive, Monterey, California 93940, to discuss such matters as may be presented by members staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jean M. Nowak, Director, Office of Advisory Councils, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416—(202) 653-6748.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 28, 1983.

[FR Doc. 83-27036 Filed 10-3-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Lansing, Michigan

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to the draft environmental impact statement will be prepared for the proposed improvement of Edgewood Boulevard in the City of Lansing, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas A. Fort, Jr., District Engineer, Federal Highway Administration, P.O. Box 10147, Lansing, Michigan 48901, Telephone (FTS) 374-1879 or (Commercial) (517) 377-1879 or Mr. Kunwar Rajendra, P. E., Transportation Coordinator, Planning and Municipal Development Department, City of Lansing, 119 North Washington Square, Lansing, Michigan 48933, Telephone (517) 483-4066.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration in cooperation with the City of Lansing and Michigan Department of Transportation, will prepare a supplement to the draft environmental impact statement (EIS) for the proposed improvement of Edgewood Boulevard between Cedar and Logan Streets in the City of Lansing, Ingham County, Michigan. The supplement will address a new Alternate "C" alignment which has been developed since circulation of the draft EIS in October 1982. The new Alternate "C" was developed to respond to the issues raised and comments received from public and agency review of the alternatives considered in the draft EIS.

The new Alternate "C" is a modification of one of five alternatives previously evaluated and eliminated from consideration by earlier studies and not addressed in detail in the draft EIS. The new Alternate "C" will include a significant portion of the 1978 Approved Alignment plus a bypass for a length of approximately three-quarters (¾) of a mile. The bypass will be a two (2) lane rather than a four lane cross section evaluated earlier and be located between Interstate Route I-96 and to the south of the Cooperative buildings. This proposed modification is anticipated to meet the needs for an improved Edgewood Boulevard facility as do the other alternates previously addressed in the draft EIS. Transportation to and through the area of the Cooperatives as well as the potential land use, social, economic and environmental impacts, however, are expected to be different in limited segments from those other alternates. The supplement to the draft EIS will compare those differences.

A scoping document on the new Alternate "C" has been prepared and identifies the principal issues to be addressed in detail in the supplement. The scoping document is available to all interested agencies, organizations and individuals on request to the above contact persons. Comments and suggestions on the scoping document and the issues identified are invited from all interested parties and should be submitted by October 21, 1983. No scoping meeting will be held due to the extensive coordination that has been conducted with various agencies, organizations and the public since circulation of the draft EIS and for preparation of the scoping document.

The supplement to the draft EIS is scheduled for completion in November 1983 and will be made available for public and agency review and comment.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: September 26, 1983.

David A. Merchant,

Division Administrator, Lansing, Michigan.

[FR Doc. 83-26870 Filed 10-3-83; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

Reporting and Recordkeeping Requirement Under MB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirement submitted for MB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to MB for review and approval, and to publish a notice in the

Federal Register notifying the public that the agency has made such a submission. USIA is requesting approval of its information collection on a standardized program report.

DATE: Comments must be received by November 28, 1983.

Copies: Copies of the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Desk Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB. Attention: Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer: Charles N. Canestro, United States Information Agency, M/M, 400 C Street, SW., Washington, D.C. 20547. Telephone (202) 485–8676, and OMB Reviewer: David S. Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C., 20503. Telephone (202) 395–7231.

SUPPLEMENTARY INFORMATION: Title: President's International Youth Exchange Initiative Program Report. Form Number: IAP—91. Abstract: The Agency needs accurate statistics on the impact on exchange programs of grants awarded under the President's International Youth Exchange Initiative. Current reporting does not provide this data uniformly. Information gathered on this program report will be used to report to the Congress, the President's Council, and the public on the Initiative.

Dated: September 29, 1983.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 83-26998 Filed 10-3-83; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 193
Tuesday, October 4, 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

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COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 48, No. 190, Thursday, September 29, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M. Tuesday, October 4, 1983.

CHANGES IN THE MEETING: Addition to Meeting: *CLOSED:* Rule Enforcement Review.

[FR Doc. S-1396-83 Filed 9-30-83; 11:27 am]
BILLING CODE 6351-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

September 29, 1983.

FCC to hold open Commission meeting, Thursday, October 6, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 6, 1983, 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

General—1—Title: An inquiry relating to preparation for an International Telecommunication Union World Administrative Radio Conference on the Use of the Geostationary-Satellite Orbit and the Planning of the Space Services Utilizing It. Summary: The Commission will consider whether to adopt a *Third Notice of Inquiry* which explicitly establishes a few basic positions and seeks further comment.

Private Radio—1—Title: Elimination of individual station licenses in the Radio Control and the Citizens Band Radio Services. Summary: The Commission will consider whether to grant a Petition for Reconsideration by the Maryland State Police of that portion of the Commission's Report and Order eliminating individual station licenses in the Citizens Band Radio Service.

Private Radio—2—Title: (1) Amendment of Part 97 of the Commission's Rules to authorize ten year operator and station license terms in the Amateur Radio Service. (2) Amendment of Part 95 of the Commission's Rules to authorize ten year license terms in the General Mobile Radio Service (GMRS). Summary: (1) The Commission will consider whether to amend Part 97 of the Rules to authorize ten year operator and station license terms and a two year grace period for renewal of expired operator and station licenses in the Amateur Radio Service. (2) The Commission will consider whether or not to provide for 10 year license terms in the GMRS.

Common Carrier—1—Title: Amendment of the Uniform System of Accounts, Part 31, to provide for changing the accounting treatment for certain telephone plant (i.e., account 231, "Station apparatus"; account 232, "Station connections".) Summary: This Commission will consider the adoption of a Report and Order to (1) change the basis of depreciation and retirement procedures for the "Station connections—other" subclass of account 232 to that used for accounts 242:1, "Aerial cable," and 242:3, "Buried cable"; and (2) transfer the "Station connections—other" plant to accounts 242:1 and 242:3.

Common Carrier—2—Title: Modifications to the Uniform System of Accounts for Class A and Class B Telephone Companies required by detariffing of customer premises equipment and proposed detariffing of customer provided cable-wiring as part of an intrasystem for PBXs and key systems. Summary: The Commission will consider the adoption of a Report and Order to modify the current accounting for public telephone equipment and company-used station apparatus. Also, this Order prescribes a new accounting instruction for network terminating wire associated with large PBXs.

Common Carrier—3—Title: Application of Chicago SMSA Limited Partnership to operate a Cellular Communications System in Chicago, Illinois. Summary: The Commission will consider the pending wireline license application to begin commercial operation of its cellular radio system in Chicago. The principal issue involved is the request of a potential competitor for deferral of the service until the nonwireline authorization is granted.

Common Carrier—4—Title: Applications for Section 214 authority to provide cable television service in Eagle, Colorado and surrounding areas by Eagle Telecommunications, Inc. (ETI), File No. W-P-C-4218 and Union Springs Telephone Co. (Union Springs), File No. W-P-C-4615. Summary: The Commission will consider ETI's eligibility for the rural exemption to the telephone company/cable system cross-ownership rules and the appropriate disposition of the Union Springs application. The ETI application was previously denied by the Common Carrier Bureau.

Common Carrier—5—Title: Revision of the Commission's Cellular Rules to change the method of selection of cellular applications in markets below the 30 largest. Summary: The Commission will consider adopting a Notice of Proposed Rulemaking to revise the method of selecting cellular licensees in markets below the 30 largest to utilize random selection or lotteries instead of comparative hearings.

Audio—1—Title: Applicant for the renewal of licenses of stations WELR (AM & FM) Roanoke, Alabama, filed by Roanoke Broadcasting Company, Inc.; a petition to deny the license renewal applications co-filed by Roy Terry, individually and on behalf of Concerned Citizens of Roanoke, and by Pluria W. Marshall, individually and on behalf of the National Black Media Coalition; and related pleadings. Summary: the Commission considers applications for renewal of licenses of stations WEIR (AM & FM), Roanoke, Alabama, a petition to deny those applications, and related pleadings. Summary: The Commission considers applications for renewal of licenses of stations WELR (AM & FM), Roanoke, Alabama, a petition to deny those applications, and related pleadings.

Video—1—Title: Petition for reconsideration of the acceptance for filing of the late-filed application of Caldwell Television Associates, Ltd. for a new commercial television station to operate on Channel 9, Caldwell, Idaho. Summary: The Commission will consider whether it properly waived its "cut-off" rules to permit the acceptance for filing of the application.

Video—2—Title: In the Matter of the establishment of further processing procedures in the Direct Broadcast Satellite (DBS) service re the applications of eight DBS permittees. Summary: The Commission will consider adopting certain further procedures for the processing of proposals for the establishment of DBS systems, in view of the conclusion of the 1983 Region 2 Administrative Radio Conference.

Enforcement—1—Title: Proposed Cable Television (EEO) processing criteria. Summary: The Commission considers whether to direct the Mass Media Bureau to review the EEO practices of cable television system operators under the same criteria as those used for radio and television licensees.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. S-1394-83 Filed 9-30-83; 8:45 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

September 29, 1983.

FCC to hold a closed Commission meeting Thursday, October 6, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, October 6, 1983 following the Open Meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Two Applications for Review and three Motions to Enlarge Issues in the Ventura, California comparative FM proceeding (Docket Nos. 80–366, 80–367 and 80–369).

Hearing—2—Application for Review in the CJL Broadcasting, Inc. Menominee, Michigan, FM new application comparative proceeding (BC Docket Nos. 80–232, 80–324).

Hearing—3—Applications for Review in the Nashua, New Hampshire, AM–FM comparative proceeding (BC Docket Nos. 80–28 to 80–33 and 80–35).

These items are closed to the public because they concern Adjudication Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend this meeting:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission September 28, 1983. Commissioners Fowler, Chairman; Quello, Dawson and Rivera 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 Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary Federal Communications Commission

[FR Doc. S-1395-83 Filed 9-30-83; 10:52 am]

BILLING CODE 6712-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:35 a.m. on Thursday, September 29, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Recommendation regarding a proposal for financial assistance to facilitate a voluntary merger of savings banks: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, separations, removals, etc.: Names of employees authorized to be exempt from disclosure pursuant to the 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)).

Application of The Troy Savings Bank, Troy, New York, for consent to establish a branch in Hudson Valley Plaza, Vandenburg Avenue, Troy, New York.

Application of The Troy Savings Bank, Troy, New York, for consent to establish a branch at 1601 Broadway, Watervliet, New York.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: September 29, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary

[FR Doc. S-1398 Filed 9-30-83; 3:30 pm]

BILLING CODE 6714-01-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Tuesday, October 11, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personal actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. S-1397-83 Filed 9-30-83; 3:13 pm]

BILLING CODE 6210-01-M

6

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:30 a.m., Tuesday, October 11, 1983.

PLACE: Eighth floor, 1120 Vermont Avenue, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Social Security Administration, Department of Health and Human Services* v. *Robert W. Goodman, Administrative Law Judge*, MSPB Docket No. HQ7521821001.

2. *Special Counsel* v. *Gary D. Morgan*, MSPB Docket No. HQ12068210028.

3. *Benjamin Harrison* v. *Department of the Treasury*, MSPB Docket No. DC07528110622.

4. *Carla Travaglini* v. *Department of Education*, MSPB Docket No. DC07528110541; *Edwin Garcia* v. *Department of the Air Force*, MSPB Docket No. NY07528090160; *Sandy Padilla* v. *Equal Employment Opportunity Commission*, MSPB Docket No. SF07528110845.

5. *Richard M. Long* v. *Federal Aviation Administration*, MSPB Docket No. NY075281F0636.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Secretary, (202) 653–7200.

Dated: September 28, 1983, Washington, D.C.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. S-1393-83 Filed 9-30-83; 9:57 am]

BILLING CODE 7400-01-M

federal register

Tuesday
October 4, 1983

Part II

Department of Labor

Mine Safety and Health Administration

Safety Standards for Fire Prevention and Control at Metal and Nonmetal Mines; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, and 58

Safety Standards for Fire Prevention and Control at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update and clarify the Mine Safety and Health Administration's existing safety standards for fire prevention and control at metal and nonmetal mines. It would consolidate the existing standards into a subpart of a single new Part 58.

DATES: Comments must be received on or before December 5, 1983.

ADDRESSES: Send comments to the Office of Standards, Regulations, and Variances; MSHA; Room 631, Ballston Towers #3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Background

An uncontrolled fire or its effects can create a life-threatening situation in a mine. Such fire can generate heat, toxic fumes, and smoke causing serious injuries and fatalities. Prudent work practices and advance preparation for fire prevention and control are essential components of any mine's safety program.

The Mine Safety and Health Administration (MSHA) is proposing to revise its existing standards for fire prevention and control for metal and nonmetal mines. These revisions would upgrade provisions consistent with advances in mining technology, eliminate duplicative and unnecessary standards, provide alternative methods of compliance, and reduce recordkeeping requirements. MSHA believes that this view will result in more effective regulations for ensuring the safety and health of miners.

On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. On November 20, 1981, MSHA published a subsequent ANPRM in the **Federal Register** (46 FR 57253) listing eight sections the Agency had selected for priority review. Standards related to fire prevention and control in 30 CFR 55/56/57.4 (Section .4) were included in the priority group.[1]

On March 9, 1982, MSHA published a notice in the **Federal Register** (47 FR 10190) announcing public conferences to discuss issues related to the fire prevention and control standards under review. MSHA developed a preproposal draft, announced its availability in the **Federal Register** on December 28, 1982 (47 FR 57883), and invited public comment. The Agency received and reviewed suggestions and recommendations from over 40 commenters, including mine operators, labor groups and equipment manufacturers.

In drafting this proposed rule, MSHA has attempted to clearly convey the requirements of each standard. The proposed requirements are intended to address hazards to persons and are not directed toward the protection of property where no life would be endangered by a fire.

MSHA's review has resulted in many substantive changes consistent with commenters' suggestions as well as the goals of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act. The proposed standards would provide new compliance alternatives which would accommodate advances in technology and offer the most effective protection for persons working at mines. These alternatives would particularly address concerns expressed by small mine operators. In addition, all existing recordkeeping provisions would be replaced by certification provisions Certification requirements are satisfied by a signed and dated statement that a required inspection or task has in fact been done.

The proposed rule has several organizational changes. Some standards would be transferred to other sections which would more appropriately address the hazards. Standards from other sections directly related to fire prevention and control would be recodified as fire prevention and control standards.

The Agency proposes to recognize Parts 55, 56, and 57 into a single Part 58 with each of the existing sections becoming a separate subpart within Part 58. Section .4 standards would be codified in Subpart C—Fire Prevention and Control. This reorganization would eliminate the current repetition of identical standards in the Code of Federal Regulations (CFR). To retain the scope of the existing standards, each proposed standard would have one of three designations: "(G)" for general standards that apply to all areas of any mine; "(S)" for those that apply only to surface areas of any mine; and "(U)" for those that apply only to underground areas.

The standards in Subpart C would be preceded by definitions and arranged into seven related groups: Prohibitions/Precautions/Housekeeping; Firefighting Equipment; Firefighting Procedures/Alarms/Drills; Flammable and Combustible Liquids and Gases; Installation/Construction/Maintenance; Welding/Cutting/Compressed Gases; and Ventilation Control Measures.

To facilitate this recodification, a new numbering system would be instituted. With respect to the fire prevention and control standards, the first number (58) represents the new Part 58 for metal and nonmetal safety and health standards. After the point, the first digit (4) represents the general subpart category; the second digit (1–7) represents the related group; and the final two digits (00–63) indicate the specific scope of each standard. Two tables are included in this document to aid in the comparison of the existing standards with the proposed standards. A derivation table cross-references the proposed standard numbers in Part 58 with the existing numbers and the preproposal draft numbers. A redesignation table cross-references existing standard numbers with the numbers of the proposed standards and denotes standards proposed for revocation.

Several commenters suggested that MSHA index its standards to cross-reference related subject areas. The Agency agrees with this concept and intends to establish a comprehensive index to its metal and nonmetal standards when revisions to Part 58 are complete.

II. Discussion and Summary of the Proposed Rule

Transfers and Deletions

The provisions of existing standards 55/56/57.4–11 and 57.4–57 addressing abandoned electrical circuits and trailing cables will be addressed in future revisions to 30 CFR 55/56/57.12 which deal with electrical hazards. However, these two standards would be retained with the fire prevention and control standards in their existing language until revisions to Sections 55/56/57.12 are published as a final rule. Existing standards 55/56/57.4–28 which

[1] Standards that uniformly appear in 30 CFR Parts 55, 56, and 57 are referred to in this document as "55/56/57."

address the competency of welders and 55/56/57.4–48 which cover instructions in fire emergency procedures would be revoked by this proposed rule because these training provisions duplicate existing requirements in Part 48 for training and retraining of miners.

The existing definitions of "flammable" in Sections 55/56/57.2 and "fire door" in Section 57.2 would not be included in the definitions for Subpart C. The concept defined by each of these terms is made clear in the proposed standards in which the term is used.

The preproposal draft contained a standard for in-situ underground retorting which does not appear in the proposed rule. The hazards of this mining process have been addressed in the preproposal draft covering 30 CFR 57.21 which concerns gassy mines.

Some existing standards incorporate by reference National Fire Protection Association (NFPA) standards for the storage of flammable liquids. The proposed rule would replace the incorporation by reference with specific performance-oriented requirements developed from the NFPA code. NFPA is a nationally recognized professional organization which deals with issues associated with fire protection. These requirements include the safety procedures and precautions to be taken in the storage of liquids posing fire hazards. To assist mine operators in meeting these performance criteria, an appendix of national consensus standards would be included for informational purposes only.

Definitions

The proposed rule would revise the existing definitions in 55/56/57.2 concerning fire prevention and control and codify the revisions at the beginning of Subpart C in § 58.4000. This organization will make it easier to find definitions for a related group of standards within new Part 58 because each subpart will have its own set of definitions. Thus, the definitions in Subpart C would apply only to the standards in Subpart C, while the existing definitions in 30 CFR Parts 55/56/57 would remain in effect with their present wording for standards not affected by this rulemaking. The following definitions for Subpart C would be placed in § 58.4000.

"Combustible"

Both the existing definition and the draft proposal defined a combustible as "capable of being ignited and consumed by fire." Some commenters objected to these definitions of "combustible" stating that they were too encompassing since virtually all materials can be "consumed by fire." They requested that combustible be defined within each standard to eliminate possible misapplications. MSHA believes that this approach would result in unnecessary repetition of an identical definition for "combustible" throughout many standards. The proposed definition, based on the definition for "noncombustible material" in the National Fire Protection Association's NFPA 220–1982 Code, would more clearly define "combustible." The proposed definition also includes examples of combustibles most frequently found in the mining industry.

"Combustible liquids"

This proposed new definition would clarify the term "combustible liquid" which is currently used in many of MSHA's fire prevention and control standards. The proposed definition would subdivide combustible liquids into three classes according to the temperature at which their flash point occurs. These subdivisions would help to indicate the degree of severity of hazard posed by any particular combustible liquid. This definition conforms to NFPA's definition for combustible liquid.

"Escapeways"

No substantive changes are proposed to the existing definition for escapeways.

"Fire resistance rating"

This proposed new definition would explain the meaning of numerical fire resistance ratings used in various standards. A fire resistance rating indicates endurance rather than propagation rate. Propagation rate is defined by "flame spread rating."

"Flame spread rating"

This proposed new definition would explain "flame spread rating" which is a measure of fire propagation rate. It is a designation supplied by the manufacturer following testing of a product or material.

"Flammable liquid"

This proposed new definition would clarify the term "flammable liquid" which is used in many of the fire prevention and control standards. By defining flammable liquids as Class I liquids, the definition would conform with nationally accepted consensus standards used in labeling flammable liquids.

"Flash point"

This proposal would change the existing definition to more closely conform the definition to that used by NFPA. The proposed definition would define flash point in reference to a flammable vapor-air mixture "near the surface of the liquid" instead of "at atmospheric pressure" and delete reference to "solids."

"Main fan"

No substantive changes are proposed to the existing definition for main fan.

"Major electrical installation"

This proposal would change the word "electrical" in the existing definition to "electric" in conformance with terminology used by the Institute of Electrical and Electronics Engineers (IEEE). As defined for the fire prevention and control standards in Subpart C, the term primarily indicates areas with significant potential fire hazards.

"Mine opening"

No substantive changes are proposed to the existing definition for mine opening.

"Multipurpose dry-chemical fire extinguisher"

This proposed revision would define multipurpose dry-chemical fire extinguishers as those meeting the nationally recognized criteria for 2-A:10-B:C extinguishers. Approval organizations such as the Underwriters Laboratories, Inc. and the Factory Mutual Research Corporation test and list fire extinguishers meeting this rating. Substitution of the word "nominal" for the word "minimal" conforms to current use in the industry.

"Noncombustible"

This proposed new definition would clarify the use of the term "noncombustible" and replace use of the undefined terms "fire resistant" and "fire retardant" used in many existing standards. This definition is consistent with the definition for "noncombustible material" published by the National Fire Protection Association in NFPA 220–1982.

"Safety can"

No changes would be made to the existing definition which defines the basic qualities of safety cans used for the storage of small quantities of flammable and combustible liquids.

Standards

The following standard-by-standard analysis discusses the proposed rule and its effect on existing standards.

Prohibitions/Precautions/Housekeeping

Section 58.4100 (G) Smoking and use of open flames.

This proposal would revise standards 55/56/57.4–1 and appeared as draft proposal 58.4–1. It addresses the hazard of ignition of readily ignitable flammable or combustible liquids or gases by lit smoking materials or the use of open flames. Commenters suggested deletion of the term "flammable substances" which was used in the draft proposal. They stated that the term would make the standard overly restrictive. MSHA agrees and has changed the proposed standard accordingly. Other commenters suggested that the draft proposal phrase "including oil and grease" be deleted because these liquids are combustible liquids as an example because many people do not readily recognize grease as a combustible liquid and are unaware of the hazards of its potential ignition.

Section 58.4101 (G) Warning signs.

This proposal would revise standards 55/56/57.4–2 and appeared as draft proposal 58.4–2. It would require signs indicating "no smoking or use of open flames" to be posted in areas where these activities could cause a fire or explosion. Some commenters on the draft proposal stated that the standard should require that signs be posted at specific distances from the hazard area. MSHA believes that requiring the signs to be "readily visible" adequately addresses the need to alert persons to the hazard.

Section 58.4102 (G) Spillage.

This proposal would revise standards 55/56/57.4–7 and 55/56/57.4–16 and appeared as draft proposal 58.4–3. It addresses the hazard of spilled flammable or combustible liquids at dispensing areas. In response to commenters, MSHA has revised the draft proposal to require drip pans only at stationary barrels or tanks and not at portable tanks because drip accumulation is minimal at portable tanks. The standard would not require drip pans for on-the-spot equipment servicing at worksites. One commenter suggested that existing standards 55/56/57.4–7 already cover the requirements of 55/56/57.4–16. However, MSHA does not believe that standards 55/56/57.4–7 address the need to clean up spills. The wording "as soon as practical" has been added to allow for clean-up in a timely manner.

Section 58.4103 (G) Fueling internal combustion engines.

This proposal would revise standards 55/56/57.4–21 and appeared as draft proposal 58.4–5. It addresses the potential hazard of ignition of spills occurring during fueling of internal combustion engines by requiring the engine to shut off. The existing exclusion of diesel equipment from this requirement would be retained in the proposed standard. Diesel fuel poses a lesser hazard than gasoline.

Section 58.4130 (S) Combustible waste.

This proposal would revise standards 55/56/57.4–12 and 55/56/57.4–13 and appeared as draft proposal 58.4–4. This surface standard addresses waste material accumulation that creates a fire hazard to persons. Some commenters stated that the standard should include "liquid or solids" as waste materials. MSHA believes that "waste materials" includes liquids and solids without further specification. MSHA is proposing a separate standard for underground areas, 58.4162, in recognition that waste accumulations poses a greater hazard underground in confined areas than on the surface.

Section 58.4131 (S) Surface electrical installations and unburied tanks.

This proposal would revise standards 55/56/57.4–3 and appeared as draft proposal 58.4–7. It would allow some combustible materials to be used in the construction or actual operation of major electrical installations or unburied tanks, but would prohibit the storage or accumulation of extraneous combustible materials. The defined term "major electrical installation" would not include an individual pole-mounted transformer under this standard. The underground mining hazards related to electrical installations and unburied tanks would be covered by proposed standard 58.4160.

Section 58.4132 (S) Fan installations and mine openings at underground mines.

This proposal would revise standard 57.4–42 and appeared as draft proposal 58.4–36.The draft proposal combined existing standards 57.4–42 and 57.4–46. Commenters, however, suggested that the hazards addressed in standards 57.4–42 and 57.4–46 would be more appropriately addressed separately. MSHA agrees, and proposes revision of standard 57.4–42 as 58.4132 and revision of standard 57.4–46 as 58.4431. Commenters stated that existing standard 57.4–42 overly restricts the presence of combustible materials near fan installations or mine openings. The proposed standard would apply only to surface areas of underground mines. It would restrict accumulation of combustible materials, but not prohibit their presence in transit or when used in the construction of mine installations. In addition, it would retain the existing provision prohibiting dry vegetation within 25 feet of mine openings.

Section 58.4160 (U) Underground electrical installations and unburied tanks.

This proposal would revise standard 57.4–3 and appeared as draft proposal 58.4–8. It would prohibit combustible materials, except installed wiring and treated timber, in the area of major electrical installations or unburied tanks. Combustible materials in these areas could spread fire to one of these installations or fuel a fire originating at the installation.

Section 58.4161 (U) Use of fire underground.

This proposal would revise standard 57.4–58 and appeared as draft proposal 58.4–9. It addresses the danger of an underground fire spreading to combustible materials or producing noxious gases. The proposal would clarify that burning open-flame torches may be used underground provided they are attended at all times. Reference to the ignition and operation of underground retorts in the preproposal draft has been deleted because those mining applications have been addressed in the preproposal draft for 30 CFR 57.21 covering gassy mines.

Section 58.4162 (U) Combustible waste underground.

This proposal would revise standards 57.4–12, 57.4–13, and 57.4–50 and appeared as draft proposal 58.4–4. This underground standard addresses hazardous accumulation of waste material and is more stringent than proposed standard 58.4130 for surface areas. A fire arising in or spreading to waste material can easily develop into a life-threatening situation for personnel in a confined underground environment.

Firefighting Equipment

Section 58.4200 (G) General requirements.

This proposal would combine and revise standards 55/56/57.4–22 and 55/56/57.4–23 and appeared as draft proposals 58.4–11 and 58.4–12. Paragraph (a) addresses the need to provide appropriate firefighting equipment for all mining operations. The existing standard would be revised to

clarify the meaning of "adequate" and "suitable." "Available" in the proposed standard would include prior arrangement made by the mine operator with municipal or volunteer fire departments. The proposed standard clarifies that firefighting equipment would be required only to the extent that it would provide protection to persons. The word "incipient" clarifies that the firefighting equipment must be capable of extinguishing a fire that is beginning to burn. Early extinguishment of a fire is essential where a safety hazard exists.

Paragraph (b) includes requirements for placement, maintenance, and marking of firefighting equipment. Inspection provisions of the existing standards would be covered in proposed standard 58.4201. One commenter stated that MSHA should require all fire extinguishers and suppression systems to have safety seals to aid in visual inspections of their "fire-ready condition." The Agency believes that, although the presence of safety seals may provide an indication of the equipment's fire-readiness, such seals do not ensure that the equipment is acutally fire-ready.

Section 58.4201 (G) Inspection.

This proposal would revise standards 55/56/57.4–23, .4–24 and .4–26 and appeared as draft proposal 58.4–13. It would require periodic inspection of fire fighting equipment to ensure that the equipment remains in fire-ready condition. The proposed standard would clarify inspection and testing intervals in the existing standards. Certification would replace recordkeeping provisions. Certification simplifies recordkeeping by requiring only that the person who makes the inspection sign and date a statement that the inspection has in fact been made. Other standards in this section would require the mine operator to correct any equipment found to be defective during the inspection so that the equipment remains in fire-ready condition. As used in this standard, certification would not require, as thought by some commenters, that a "certified person" make the examination or certification. The proposed standard would clarify that surface fire suppression systems installed solely for the protection of property would be exempt from the inspection requirement in paragraph (c). A commenter representing a number of seasonal surface mining operations expressed concern that the standard would require monthly inspection of fire extinguishers during periods when a mine is seasonally shut down. MSHA does not intend to apply the standard when a mine is inactive and no hazard to personnel is involved.

Section 58.4202 (G) Fire hydrants.

This proposal would revise standards 55/56/57.4–25 and appeared as draft proposal 58.4–14. If fire hydrants are part of a mine's firefighting system, it is important that quick connection of hose equipment to the hydrants be possible in the event of a fire. In response to commenters, MSHA proposes that the standard only apply to fire hydrants that are part of a mine's firefighting system. In addition, MSHA has adopted the commenters' suggestion that readily available adapters be an acceptable alternative to uniform fittings for use with hydrants.

Section 58.4203 (G) Extinguisher replacement or recharging.

This proposal would revise standards 55/56/57.4–24 and appeared as draft proposal 58.4–15. It would require replacement or recharging of a fire extinguisher after any discharge. Reference in the existing standard to approval of fire extinguishers by private approval organizations would be deleted because proposed standard 58.4200 would ensure that fire extinguishers are appropriate for their intended use and are maintained in fire-ready condition. Paragraphs (a) and (b) of the existing standards, which address the type and adequacy of extinguishers, are included in proposed standard 58.4200. Inspection provisions in paragraph (d) are addressed in proposed standard 58.4201. Permanently installed suppression devices are addressed in proposed standard 58.4200.

Section 58.4230 (S) Surface self-propelled equipment.

This proposal would revise standards 55/56/57.4–27 and appeared as draft proposal 58.4–16. The existing standard requires a fire extinguisher to be readily accessible to operators of self-propelled mobile equipment. The draft proposal distinguished the fire hazards of self-propelled equipment underground as greater than those on surface equipment. This proposed rule would also address surface and underground hazards in two separate standards, 58.4230 and 58.4260, respectively. Proposed surface standard 58.4230 would only apply to self-propelled equipment where potential fire hazards could endanger persons on the equipment or other persons in the area. The standard would also permit use of fire suppression systems on the equipment as an alternative to fire extinguishers. This alternative would recognize the technological advancements made in such systems in recent years. In response to commenters, MSHA has deleted the references which the draft proposal made to the location of dispensing nozzles. The proposed standard would require that the fire suppression equipment must be appropriate for extinguishing the self-propelled equipment's inherent fire hazards."

Section 58.4260 (U) Underground self-propelled equipment.

This proposal would revise standard 57.4–27 and appeared as draft proposal 58.1–7. The presence of fire extinguishers or fire suppression systems on self-propelled equipment is essential underground. A fire on such equipment endangers not only the equipment operator, but also other persons underground. Because of the necessity for immediate access to a) means of extinguishing an underground fire in its initial stages, this standard does not permit location of fire extinguishers anywhere other than on the equipment. Several commenters suggested that MSHA permit extinguishers to be located off the equipment, but in the area of the equipment. The Agency believes that the limited conditions under which location of extinguishers in the vicinity of the equipment could be safe are too site-specific to be addressed in a standard that applies to all underground situations.

Some commenters stated that the less stringent provisions of the proposal for surface operations, standard 58.4230, should also be applicable underground. MSHA believes that the confinement of underground mining conditions makes it essential to extinguish a fire in its initial stages before it affects the mine ventilation system. One commenter felt that conditions at underground mines using large room-and-pillar mining methods are no more hazardous than conditions at surface mines because of the space and ventilation at such underground mines. At this point in the rulemaking process, MSHA does not believe that conditions at large room-and-pillar mines are uniformly enough like surface mines to permit the application of the proposed surface standard to these mines.

In response to commenters, MSHA has deleted reference made in the draft proposal to the location of dispensing nozzles on fire suppression systems and exempted compressed-air powered equipment, provided that such equipment has no ignition sources.

58.4261 (U) Shaft-station waterlines.

This proposal would revise standard 57.4–63 and appeared as draft proposal 58.4–18. It would require waterline outlets that are part of the mine's fire protection system at shaft stations to have at least one fitting for quick connection to the mine's firefighting equipment. One commenter suggested that MSHA specifically require waterline outlets at shaft stations. MSHA recognizes that many mines rely on such waterlines for fire protection. However, other mines must limit the use of such waterlines due to the solubility of the substance mined. In addition, proposed standard 58.4200 provides for appropriate fire protection at all mines. This proposed standard addresses only mines that use waterline outlets at shaft stations as part of the mine's firefighting equipment. For these reasons, MSHA has not proposed to require location of waterlines at shaft stations.

Section 58.4262 (U) Installations with specific hazards.

This proposal would revise standard 57.4–55 and appeared as draft proposal 58.4–19. It would provide a means of fighting incipient fires at major electrical installations, storage and dispensing areas for combustible liquids, pump rooms, compressor rooms, and similar installations. One commenter believed that the draft proposal would expand the scope of the existing standard. The proposed standard does not address any new fire hazard areas. However, it would clarify that and underground fire in one of the installations listed poses a hazard to persons even if timber or combustible rock is not present because of the smoke and toxic fumes that could be generated.

Section 58.4263 (U) Belt conveyors.

This proposal would revise standard 57.4–66 and appeared as draft proposal 58.4–20. It addresses the possibility of friction or electricity causing a belt conveyor fire. The electrical systems, grease used for lubrication, and friction points on belt conveyors are all potential fire hazards. As suggested by commenters, MSHA has changed the draft proposal to allow flexibility in the methods used for extinguishing incipient fires along the belt line. Examples of such provisions are water lines, fire extinguishers at strategic locations, or fire extinguishers on mobile equipment used to patrol the belt line.

Firefighting Procedures/Alarms/Drills

Section 58.4330 (S) Surface procedures.

This proposal would combine and revise standards 55/56/57.4–40 and 55/56/57.4–39B and appeared as draft proposals 58.4–21 and 58.4–22. It recognizes that proper coordination of emergency procedures with available firefighting organizations is an essential component in any fire protection program. The firefighting drill requirements of existing standards 55/56/56.4–39B are addressed in proposed standard 58.4331.

Paragraph (b) of the proposed standard would require establishment of procedures for prompt warning to anyone who could be endangered by a fire. Advance provision for such warning capability is necessary to make any fire protection program effective. Paragraph (c) would require fire alarm systems to be maintained to ensure that they will function properly in the event of an emergency.

Section 58.4331 (S) Firefighting drills.

This proposal would revise standards 55/56/57.4–39B and appeared as draft proposal 58.4–23. It would require semi-annual firefighting drills for persons assigned firefighting duties by the mine operator. Such practice maintains the preparedness of the personnel who would be involved in firefighting. MSHA has revised the draft proposal to reflect the requirements of standard 55/56/57.4–39B. Notes to the draft proposal led some commenters to believe that the standard would require escape and evacuation drills by all persons at a mine. The proposed standard clarifies that the drill requirements would only apply to those personnel who would be involved in firefighting activities.

Section 58.4360 (U) Underground alarm systems.

This proposal would revise standard 57.4–51 and appeared as draft proposal 58.4–24. It would require prompt warning of all persons underground in the event of a fire. Such warning is an essential component of any fire protection program. Some commenters stated that the word "prompt" in the draft proposal was ambiguous and suggested that it be replaced by "adequate" or "suitable." MSHA did not adopt this suggestion because the Agency believes that these terms do not convey a sense of urgency or indicate that warning must be given without delay. In response to commenters, MSHA has revised the draft proposal to provide for warning persons who may be working in remote areas beyond the warning capabilities of the fire alarm system. Another commenter suggested qualifying alarm systems by adding the word "emergency." MSHA realizes that emergencies other than fires occur underground; however, the standards in this subpart would only address fire hazards.

Section 58.4361 (U) Underground evacuation instruction.

This proposal would revise existing standard 57.4–74. The preproposal draft would have transferred the provisions of this standard to Part 48 which deals with training of miners. Commenters expressed concern about such a transfer for various reasons. Some believed that the provisions of the standard are covered by the existing Part 48 provisions; others expressed concern that the provisions would not be appropriately addressed by Part 48. MSHA is proposing to delete the existing requirement for training of new miners because this provision duplicates the training requirements under 30 CFR 48.5(b)(5). However, MSHA does not agree that the other provisions in the existing standard duplicate the training provisions in Part 48. It is essential that all persons working underground be familiar with fire warning signals and the emergency escape and evacuation plan of the mine and their assigned work area. The proposal provides for instruction in this area at least once every twelve months. The standard would also retain the existing provisions requiring instruction about which escapeway to use for persons assigned to a new work area. One commenter suggested that persons in remote areas be allowed to report to motor operators for evacuation instructions in an emergency. However, in an emergency, a motor operator may not be present in the area. Certification provisions would replace existing recordkeeping provisions.

Section 58.4362 (U) Underground evacuation drills.

This proposal would revise standard 57.4–73 and appeared as draft proposal 58.4–25. It would require semi-annual mine evacuation drills for each shift. Mine evacuation practice keeps all persons who work underground prepared for escape and evacuation in the event of an actual fire emergency.

One commenter suggested that evacuation points in paragraph (b) be at the fresh air base, and further suggested the addition of a new paragraph (c) which would set time limits for evacuation. According to MSHA's experience, the fresh air base cannot be designated in advance but varies according to the location of the fire. Further, existing standard 57.11–50 already includes time limits for reaching refuge chambers or reaching the surface. Another commenter suggested

relocating this standard in Section .11—Travelways and Escapeways. Although travelways and escapeways may be an integral part of an evacuation plan, this drill standard addresses preparation for fire emergencies.

At the completion of each drill, the mine operator would be required to certify the date and the time that the evacuation began and ended. This certification would show whether the evacuation drill was done in an expedient manner according to the mine's escape and evacuation plan required under existing standard 57.11–53.

Section 58.4363 (U) Rescue and firefighting operations.

This proposal would revise standard 57.4–72 and appealed as draft proposal 58.4–26. The proposed standard states the conditions under which persons may advance beyond the fresh air base in fire emergencies after the mine has been evacuated. It would not preclude mine personnel from fighting and controlling incipient fires prior to and during mine evacuation. The proposed standard does not duplicate any provisions in 30 CFR Part 49—Mine Rescue Teams. Some commenters suggested the wording "equipped with, and trained in the use of, rescue breathing apparatus" to allow mine rescue operations to be undertaken by local fire departments. MSHA believes that this issue is appropriately addressed in the existing mine rescue team regulations. However, MSHA believes that once a fire emergency has been declared and a fresh air base has been established, mine rescue apparatus must be worn as a precautionary measure. For these reasons, the proposed standard would retain the draft proposal requirement that the apparatus be worn.

Flammable and Combustible Liquids and Gases

Section 58.4400 (G) Use restrictions.

This proposal would revise and combine standards 55/56/57.4–14 and 55/56/57.4–15. It appeared as draft proposals 58.4–31 and 58.4–32. Paragraph (a) would prohibit flammable liquids from being used for cleaning. MSHA has adopted a suggestion by commenters that the application of the standard to solvents with a flash point lower then 100° F. be broadened to include all flammable liquids because a flash point of 100° F. or below defines a flammable liquid. The term "flammable liquid" clarifies that flammable liquids such as gasoline must not be used for cleaning. Paragraph (b) would address the hazards of using solvents near ignition sources or in an atmosphere that could raise the temperature of the solvent above its flash point.

Section 58.4401 (G) Storage tank foundations.

This proposal would revise standards 55/56/57.4–5 and appeared as draft proposal 58.4–33. It addresses the hazard of storage tank leakage induced by settling. One commenter suggested that the materials composing the foundation of an unburied tank should be restricted to concrete, masonry, piling, or steel. MSHA does not believe that the Agency should be restrictive about the material used to provide a firm foundation to minimize leakage. To address the special hazards of underground applications, proposed standard 58.4463 would require location of underground storage tanks in areas free of combustible materials.

Section 58.4402 (G) Safety can use.

This proposal would revise standards 55/56/57.4–4 and appeared as draft proposal 58.4–34. It addresses the removal of small quantities of flammable liquids from storage by requiring the use of safety cans. The words "appropriately labeled" in the existing standard would be clarified by the words "labeled to indicate the contents." One commenter proposed that MSHA allow small quantities of flammable liquids to be kept in any "closed, labeled container." MSHA believes that such containers may not provide an adequate measure of safety. Safety cans are readily available and widely accepted. They are specifically designed to safely relieve internal pressure when exposed to heat sources.

Section 58.4430 (S) Surface storage.

This proposal would revise standards 55/56/57.4–4 and appeared as draft proposal 58.4–35. It addresses the hazards of fire and explosion that could occur by inappropriate storage of flammable and combustible liquids. The proposed standard would replace the incorporation by reference in the existing standard by performance requirements. One commenter on the draft proposal suggested that MSHA incorporate by reference NFPA 30, NFPA 70, and NFPA 77, to address the fire, explosion, leak, and health hazards of supplemental liquid waste fuel systems used at cement kilns. MSHA proposed deletion of the incorporation by reference of NFPA consensus standards because incorporations require that mine operators use other documents in addition to the standard to determine complete compliance requirements. The proposed standards address the hazards of fires and explosions at cement kiln installations. Health hazards are addressed by standards in 30 CFR 55/56/57.5.

Another commenter recommended deletion of the venting requirements in the draft proposal, stating that venting is covered under "recognized engineering practices." Although venting does represent a recognized engineering practice, MSHA believes that venting is a critical safety feature for relief of pressure build-up and needs separate emphasis in the standard.

Several commenters expressed concern that the word "containers" would include 55-gallon drums and grease cans and require venting for such containers. The proposed standard would clarify this by specifying that the standard applies to containers exceeding 60 gallons in capacity. MSHA also agrees with commenters that portable tanks and tanks storing only Class IIIB liquids do not need to be surrounded by diking. The proposed standard reflects appropriate changes to address these concerns. One commenter suggested that trenching be allowed at installations where diking would not provide for total containment of the largest tank. Although trenching is used with dikes for water removal or tank separation, MSHA does not believe that the use of trenching for spillage overflow provides the same safety that dike containment does. The proposed diking requirements are derived from NFPA 30, Chapter 2–2.3.

Section 58.4431 (S) Surface storage restrictions at underground mines.

This proposal would revise standard 57.4–46 and appeared as draft proposal 58.4–36. Draft proposal 58.4–36 combined existing standards 57.4–42 and 57.4–46. However, commenters suggested that the hazards addressed in standards 57.4–42 and 57.4–46 are most appropriately addressed as separate standards. MSHA agrees and proposes revision of standards 57.4–42 and 57.4–46 as 58.4132 and 58.4431, respectively. Proposed standard 58.4431 addresses the need to restrict the presence of flammable and combustible liquids and gases in areas close to mine ventilation installations and escapeways. Some commenters requested that no restrictions be placed on the storage of combustible liquids at any of these areas. MSHA believes that flammable and combustible liquids should be excluded to the extent possible from the areas surrounding ventilation installations and escapeways. However, MSHA is proposing revisions that recognize the need to store small

quantities of flammable and combustible liquids for maintenance of the hoist house or hoist machinery.

Section 58.4461 (U) Underground storage of flammable liquids.

This proposal would revise standards 57.4–4 and 57.4–52 and appeared as draft proposal 58.4–37. It would prohibit the underground storage of most flammable liquids. Flammable liquids are extremely hazardous if ignited in the confined environment of underground mines. The proposed revision recognizes that small quantities of flammable liquids, acetylene, and liquefied petroleum gas are used frequently undergound and present a limited hazard if appropriately stored. The draft proposal would have limited storage of flammable liquids to small quantities of paints. Commenters stated that small quantities of flammable liquids other than paints are frequently used underground and could be safely stored there. The proposed rule has been broadened and would allow small quantities of other flammable liquids to be stored underground if appropriately stored and limited to quantities placed in a safety can or containers of equivalent capacity. However, the proposed standard would retain the provision in existing standard 57.4–52 that prohibits any storge of gasoline underground because of its highly volatile nature.

Section 58.4462 (U) Gasoline use restrictions.

This proposal would revise standard 57.4–52 and appeared as draft proposal 58.4–38. It permits the use of gasoline to power internal combustion engines underground in certain, limited mining conditions. One commenter strongly objected that the draft proposal did not include the provision in existing stndard 57.4–52 which prohibits underground storage of gasoline. This specific prohibition of underground gasoline storage is retained in proposed standard 58.4461.

Section 58.4463 (U) Underground storage of combustible liquids.

This proposal would revise standard 57.4–54 and appeared as draft proposal 58.4–39. It would permit underground storage of combustible liquids if the liquids are kept in appropriate containers and located in areas that do not pose a fire hazard. The proposed standard replaces the term "suitable" with the specific conditions under which combustible liquids may be stored underground. One commenter believed that the standard should require containment around combustible liquids that are stored underground. MSHA agrees that containment or a means to safely remove the contents of the largest tank in an underground storage area is necessary to address the hazard of tank rupture. The proposed standard would require such measures for storage tanks with a capacity of greater than 60 gallons. Several commenters suggested allowing storage of combustible liquids immediately adjacent to combustible materials if the liquids are stored in a "fire resistant" area. In place of the existing term "fire resistant," the proposed standard would require combustible liquids to be located in areas free of combustible materials or where any exposed combustible materials are coated with one inch of shotcrete, one-half inch of gunite, or other noncombustible material with equivalent fire protection characteristics.

Section 58.4464 (U) Liquefied petroleum gases.

This proposal would revise standard 57.4–53 and appeared as draft proposal 58.4–40. It would make no changes in existing standard 57.4–53 which limits liquefied petroleum gas (LPG) use to maintenance work to ensure that its use will be of short duration and closely attended.

Installation/Construction/Maintenance

Section 58.4500 (G) Heat sources.

This proposal would revise standards 55/56/57.4–9 and 55/56/57.4–10 and appeared as draft proposal 58.4–41. It addresses the need to isolate heat ignition sources. Some commenters expressed concern that the draft proposal would require additional separation for power cables and conductors beyond the insulation requirements of the electrical standards for metal and nonmetal mines. Properly insulated power cables and conductors in conformance with the requirements of MSHA's metal and nonmetal electrical standards would be considered separated from combustible materials under this proposed standard. Protection against mechanical damage to power wires and cables contained in existing standards 55/56/57.4–10 has been addressed in the preproposal draft for electrical standards in 30 CFR 55/56/57.12.

Section 58.4501 (G) Storage tank fuel lines.

This proposal would revise standards 55/56/57.4–8 and appeared as draft proposal 58.4–42. It addresses the potential hazard of leakage of fuel lines connected to strorage tanks and other containers. A valve at the source would allow the fuel supply to be shut off in the event of leakage. Several commenters pointed out that the draft proposal did not specify that the fuel lines addressed by the standard are limited to those from storage tanks. In response to these commenters, MSHA has changed the proposed standard to clearly state "fuel lines from storage tanks."

Section 58.4502 (G) Battery-charging stations.

This proposal would revise standards 55/56/57.4–20 and appeared as draft proposal 58.4–43. It addresses the hazard of build-up of highly flammable hydrogen gas at battery charging stations by requiring proper ventilation of such areas. In addition, the proposed standard addresses the hazard of ignition of hydrogen associated with such activities as smoking, use of open flames, or other activities that could create ignition sources. This prohibition would apply only while batteries are being charged because battery-charging generates hydrogen gas in significant quantities. The draft proposal would have required sufficient ventilation to prevent heat build-up as well as the accumulation of hydrogen gas. Several commenters pointed out that the process of charging batteries itself generates heat. They stated that if ventilation is sufficient to prevent the hydrogen gas accumulation, the same ventilation would minimize this heat build-up. MSHA agrees and has changed the proposed standard to reflect these comments. Another commenter recommended that the standard specifically require battery-charging stations to be posted with signs to prohibit the introduction of ignition sources. Because hydrogen is an odorless, colorless gas whose generation during battery charging is not immediately detectable, the proposed standard would require charging stations to be posted with a sign prohibiting smoking or use of open flames.

Section 58.4503 (G) Fan installations at underground mines.

This proposal would revise standards 57.5–18B and 57.5–22 and appeared as draft proposal 58.4–49. MSHA believes that these two Section .5 standards appropriately belong with the fire prevention standards because of the fire hazards addressed. Maintaining the integrity of fan installations is essential to providing a safe mine environment underground. The proposed standard limits the combustibles allowed at fan installations to installed wiring, ground

and track support, headframes, and direct-fired heaters. "Direct-fired heaters," included in the exceptions in the existing standard, was inadvertently deleted in the draft proposal, but is included in the proposed standard. Coated timber would be considered noncombustible under this standard. The term "fire-resistant" in existing standard 57.5–22 would be replaced by the defined term "noncombustible;" and the term "fan housing" would be clarified by the terms "fan houses" and "fan bulkheads." This standard would not apply to auxiliary fans because such fans are not used as a mine's principal source of ventilation.

Section 58.4504 (G) Fuel-line drainage.

This proposal is derived from existing standard 57.4–8 and appeared as draft proposal 58.4–50. At underground mines, fuel lines often extend down shafts or declines and are exposed on level landings. These fuel lines are especially subject to damage and can become sources of substantial fluid leakage when a small leak goes unnoticed. The standard would require such fuel lines to be drained when not in use. One commenter requested that the standard apply only to fuel lines in operating shafts. This commenter also stated that drainage of fuel lines into fuel storage facilities already filled to capacity would increase the possibility of fuel spillage. MSHA believes that fuel-line drainage is needed to address the fire hazard that could result from rupture or leakage of any fuel line into an underground mine. Spillage problems due to draining of the fuel lines can be avoided by a one-time calculation of the fuel-line capacity.

Section 58.4530 (S) Building exits.

This proposal would revise standards 55/56/57.4–41 and appeared as draft proposal 58.4–44. It addresses the hazard of persons being trapped in a burning building if there are insufficient exit routes. Some commenters stated that the draft proposal would require even a small "operator's shack" to have at least two exits. MSHA has revised the standard so that it would require "an exit or exits," whichever would permit the prompt escape of everyone in a building in case of fire.

Section 58.4531 (S) Flammable or combustible liquid storage in buildings or rooms.

This proposal would revise standards 55/56/57.4–39A and appeared as draft proposal 58.4–45. It would provide for isolation of flammable or combustible liquid storage areas in a building in which persons normally work or within 100 feet of where persons normally work. The proposed standard would require flammable or combustible storage areas to be well-ventilated. It would provide alternatives to the existing requirement in standards 55/56/57.4–39A that the storage buildings or rooms be constructed to meet a one-hour fire resistance rating. As alternatives to this construction requirement, the proposed standard would permit protection by automatic fire suppression systems or by detection/alarm systems in buildings where there is no normal work activity. The proposed standard also addresses the primary concern of commenters that the draft proposal did not clearly distinguish between the storage and the use of flammable or combustible liquids. It would exempt small quantities of flammable or combustible liquids used for day-to-day maintenance and operational activities.

Section 58.4532 (S) Surface belt conveyors.

This proposal would revise standards 55/56/57.4–47 and appeared as draft proposal 58.4–47. It addresses the hazard of belt-slippage causing ignition of the belt on a belt conveyor. It would require belt conveyors to be equipped with a detection system capable of automatically stopping the drive pulley when slippage occurs. Installation of slippage switches would meet this requirement. In addition, the standard would require that the drive pulley be attended when the automatic function is temporarily by-passed. This provision would ensure that temporary by-passing does not continue during the operational mode. Commenter stated that belt conveyors that are located in open areas where evacuation of personnel would not be impeded in the event of a fire should not need a detection system; a belt fire at such locations would not endanger anyone. In response to these commenters, MSHA has revised the proposed standard to apply only to belt conveyors in confined areas where evacuation in the event of a fire would be restricted. Confined areas include reclaim tunnels and other restricted passages where prompt evacuation from the structure would be hindered.

Section 58.4533 (S) Blacksmith shops.

This standard would revise standard 57.4–45 and appeared as draft proposal 58.4–46. It addresses the potential hazard of smoke and toxic fumes entering the underground environment of a mine from a fire in a blacksmith shop. Revisions to the draft proposal clarify that this standard would apply only to surface areas of underground mines. The proposed standard would prohibit blacksmith shops within 100 feet of fan installations used for intake air or mine openings. It would add compliance alternatives to the construction requirements in the existing standards. The standard would require blacksmith shops located within or adjacent to structures within 100 feet of a mine opening or fan installations to be: (1) Constructed to meet a fire resistance rating of no less than one hour; (2) constructed with noncombustible materials; or (3) provided with a functional automatic fire suppression system.

Section 58.4534 (S) Mine opening vicinity.

This proposal would revise standard 57.4–43 and appeared as draft proposal 58.4–49. It addresses the hazard of smoke or gas from a surface fire entering the underground workings of a mine or obstructing an escapeway. The proposed standard would provide for alternative compliance methods in addition to those currently accepted by MSHA. It would no longer limit alternative use of automatic fire suppression systems to older structures. A commenter proposed that paragraph (c) state "constructed of materials to meet a fire-resistance rating of no less than one hour." MSHA has retained the draft proposal wording because fire-resistance is based on both the materials and assembly of a building. The assembled structure would have to meet a fire-resistance rating of at least one hour.

Section 58.4560 (U) Mine entrances.

This proposal would revise standard 57.4–62 and appeared as draft proposal 58.4–51. The proposal addresses the hazard of propagation of a fire that could lead to the collapse of ground support timber in escape routes or the spread of smoke or gas from intake openings. The existing standard applies to timber in "mine entrances." This proposal would apply only to timber used for ground support in intake openings and in exhaust openings that are designated as escapeways under 30 CFR 57.11—Travelways and Escapeways. The existing standard permits use of fire retardant paint to attain a flame spread rating of 25 or less on the timber. The proposal would allow use of any coating, including fire retardant paint, that reduces the timber's flame spread index to 25 or less. This flame spread rating constitutes a significant reduction in the flame propagation properties of timber. Additional alternatives in the proposed

standard include the use of shotcrete, gunite, or other material with equivalent fire protection characteristics and the use of a fire suppression system. In response to commenters, the words "incipient fire" would be added to the automatic fire suppression system alternative to convey the concept of extinguishing a fire in its early stages.

Section 58.4561 (U) Stationary diesel equipment.

This proposal would revise and combine standard 57.4–85 and 57.4–86 and appeared as draft proposal 58.4–52. It would retain the existing requirement that stationary diesel equipment underground be supported on a noncombustible base and have a thermal sensor to automatically stop the engine should overheating occur. These requirements would help to ensure that a fire in unattended diesel equipment does not spread and set fire to the mine.

Section 58.4562 (U) Underground belt conveyors.

This proposal would revise standard 57.4–75 and appeared as draft proposal 58.4–53. It addresses the hazard of belt slippage causing the belt to ignite and would ensure that temporary bypassing will no continue during the operational mode. One commenter suggested that proposed surface standard 58.4532 • should apply to all belt conveyors; however, as proposed, standard 58.4532 would apply only when a hazard to personnel is shown. This standard would apply to all underground belt conveyors because a hazard to personnel is inherent in the ignition of any underground belt due to the confined environment underground. Another commenter suggested that the standard should address the possibility of a fire resulting from friction due to frozen take-up pulleys or tail pulleys. MSHA's experience with belt fires indicates that the possibility of a running belt catching fire due to a frozen take-up or tail pulley is remote.

Welding/Cutting/Compressed Gases

Section 58.4600 (G) Extinguishing equipment.

This proposal would revise standards 55/56/57.4–29 and 57.4–76 and appeared as draft proposal 58.4–62. It primarily addresses ignition hazards present in activities using an electric arc or open flames to weld, cut, solder, thaw, or bend, and addresses the need to extinguish incipient fires. The proposed standard takes into account the hazard of using an inappropriate extinguishing agent where such use could result in an electric shock hazard. One commenter suggested a simplified version of the draft proposal which was helpful but did not emphasize the electrical hazard caused by use of electrically-conductive extinguishing agents. Other commenters requested greater flexibility in choosing an extinguishing agent, specifying such agents as carbon dioxide (CO_2) or halogenated hydrocarbons. Although these agents may be effective on electrical fires, the activities addressed by this standard are often conducted in areas where Class A fire hazards are present. Carbon dioxide is not rated for Class A fires. Halogenated hydrocarbons are used in special applications but may create toxicity problems when used in confined areas.

Section 59.4601 (G) Oxygen cylinder storage.

This proposal would revise standards 55/56/57.4–18 and appeared as draft proposal 58.4–63. It addresses the ignition hazard resulting when oxygen under pressure comes into contact with flammable and combustible liquids, especially oil or grease. The existing standard only addresses oil and grease; however, contact of any flammable or combustible liquid with oxygen under pressure can pose a serious ignition hazard. A few commenters suggested that the draft proposal phrase "including oil and grease" be deleted because these liquids are combustible liquids. MSHA believes that grease needs to be included as an example because many people do not readily recognize grease as a combustible liquid and are unaware of the hazards of its potential ignition especially in applications using oxygen under pressure.

Section 58.4602 (G) Gages and regulators.

This proposal would revise standards 55/56/57.4–19 and appeared as draft proposal 58.4–64. It addresses the hazard of ignition of grease or oil by oxygen under pressure in the gages or regulators of oxygen or acetylene containers.

Section 58.4603 (G) Closure of valves.

This proposal would revise standards 55/56/57.4–33 and appeared as draft proposal 58.4–65. When valves on storage cylinders are open, the connecting hoses are extensions of the storage cylinders. Without close attention, the hoses could become damaged and release gases creating a flammable atmosphere. The standard would clarify when valves must be closed to prevent this hazard. One commenter suggested that the standard require valve closure only when tanks not in use are left unattended. Such a standard would permit welders to leave their tanks unattended for prolonged periods as long as the tanks could be construed to be "in use" by virtue of an incomplete task. This phrasing has caused some confusion with the existing standard. Another commenter suggested using a time limit of twenty minutes to determine "unattended." MSHA believes that the hazard is not a function of time, but rather of the activities in the work area. Another commenter described the safe use of manifold systems and the hazard posed by residual gases left in hoses after valve closure. These two concerns have been incorporated into the proposed standard by changing the proposal to address tank and manifold systems and by adding new provisions that would require hoses to be relieved of residual pressure after valves are closed.

Section 58.4604 (G) Preparation of pipelines or containers.

This proposal would revise standards 55/56/57.4–35 and appeared as draft proposal 58.4–6. It addresses the hazard of ignition of residual flammable or combustible substances in pipelines or containers. In response to commenters, MSHA has clarified the standard so it would apply to pipelines or containers that have contained flammable or combustible liquids or gases, or explosive solids. A new provision requiring top-venting of closed containers during the application of heat to prevent pressure build-up would be added to existing provisions.

Section 58.4660 (U) Work in shafts, raises, winzes, or other special hazard areas.

This proposal would revise and combine standards 57.4–77 and 57.4–78 and appeared as draft proposal 58.4–66. It addresses the hazard of ignition of combustible materials when welding, cutting, soldering, or thawing pipes is taking place. This proposed standard would eliminate redundant provisions in the two existing standards. A chart would be added to help clarify the different situations to which the standard applies. One commenter suggested retention of the two standards and objected to the wording of the draft proposal in paragraph (b) that "the most appropriate action listed" be taken. Other commenters shared MSHA's belief that the standard is more readily understood in the draft proposal format which is the same as the proposed standard. The proposed rule revises paragraph (b) and would require that "at least one of the actions listed" be taken. Another commenter suggested that the

proposed standard is too detailed for practical application. The proposed standard contains the same requirements as the existing standards while removing redundant provisions.

Ventilation Control Measures

Section 58.4760 (U) Shaft mines.

This proposal would revise standard 57.4–61A and apperared as draft proposal 58.4–71. It addresses the need to protect persons underground in the event of a fire and the resultant spreading flames, smoke, and toxic gases.

In general, commenters requested changing the standard to allow the site-specific conditions of the mine to be addressed in determining the methods by which personnel underground would be protected in the event of a fire. They stated that the installation of control doors should not be required at all shaft mines because in some instances other means would provide at least the same protection to personnel as would the installation of control doors.

The proposed standard would allow three compliance alternatives: control doors built to minimum construction criteria; reversal of mechanical ventilation; or demonstrated capability of evacuation if the evacuation could be implemented within ten minutes. The evacuation alternative would particularly apply to smaller mines where the number of persons underground is small and the fuel-load sources are limited.

The proposed rule would delete the definition of "fire door" and include the minimum requirements for control doors in Table 4–2. Several commenters objected to the draft proposal because it would have relied on plan approvals. Provisions for District Manager approval have been removed from the proposed standard.

One commenter stated that the term "shaft mines" is ambiguous. In response, MSHA has drafted the standard to clarify that under the standard a "shaft mine" would mean any mine in which the evacuation of all persons, including the injured, is done by either a mechanical hoisting device or a ladder ascent. This clarification emphasizes the intent of the standard to provide for the safe evacuation of persons in the event of a fire underground.

Some commenters stated that control doors are ineffective as a means of extinguishing a fire. The control doors that would be required by this standard would function to prevent spread of smoke and toxic gases in order to permit the safe escape of persons underground, not extinguish fires.

Another commenter noted that the specific fire-resistance rating requirement (one and one-half hour fire-resistance rating) in the draft proposal would be difficult to determine for the large doors needed at some mines. Revisions to Table 4–2 specify minimum construction requirements without reference to fire-resistance rating. Reference to a one and one-half hour fire-resistance rating is retained for roll-down doors because fire-resistance ratings are available for the majority of such doors.

One commenter objected to the draft proposal requirement that control doors be installed at all shaft stations because the doors could be closed improperly, endangering some personnel underground. The proposed standard would require that, if control doors are used, they must be closed by a person designated by the mine operator according to predetermined conditions and procedures.

Section 58.4761 (U) Underground shops.

This proposal would revise standard 57.4–61B and appeared as draft proposal 58.4–72. It addresses the hazard of a fire in an underground shop that could spread fire, smoke, and toxic gases through the mine. Among other hazards, underground shop maintenance of mobile equipment involves oils, greases, and tires which, in combination with grinding, welding, heating, and cleanup procedures, create a high potential for fire.

Several commenters suggested that MSHA draft a single standard for all control doors. However, underground shops are likely to contain a greater concentration and variety of fuel loads for a fire and more potential ignition sources than other parts of a mine. For this reason, the control measures for underground shops differ significantly in degree from those for the shaft and other areas of the mine. Retention of two separate standards therefore would allow greater flexibility for compliance.

The existing standard offers only two alternatives: use of fire doors or bulkheads, or routing shop air directly to the exhaust system. The proposed rule would offer two additional methods of compliance: reversal of mechanical ventilation, and use of an automatic sprinkler system if an alternative escapeway around the shop areas exists.

Some commenters believed that smoke and gases from a shop fire would enter the mine ventilation system slowly enough for all persons underground to safely escape. The commenters pointed out that tracer-gas tests seem to verify this opinion. MSHA believes that tracer-gas tests do not provide an accurate indication of how quickly the effects of a mine fire could spread throughout a mine. In an actual mine fire, the source of the smoke and gas could be substantially larger than in the test because of the fuel loads present in underground shops.

Derivation Table

The following derivation table lists: (1) The number of the proposed standard; (2) areas of a mine where the standard would apply; (3) the number of the standard in the preproposal draft; and (4) the number of the existing standards that the proposed standard would revise.

DERIVATION TABLE

New No.	Scope [1]	Preproposal No.	Old No.
58.4100	G	58.4–1	55/56/57.4–1
58.4101	G	58.4–2	55/56/57.4–2
58.4102	G	58.4–3	55/56/57.4–7
			55/56/57.4–16
58.4103	G	58.4–5	55/56/57.4–21
58.4130	S	58.4–4	55/56/57.4–12
			55/56/57.4–13
58.4131	S	58.4–7	55/56/57.4–3
58.4132	S	58.4–36	57.4–42
58.4160	U	58.4–8	57.4–3
58.4161	U	58.4–9	57.4–58
58.4162	U	58.4–4	57.4–12
			57.4–13
			57.4–50
58.4200	G	58.4–11	55/56/57.4–22
		58.4–12	55/56/57.4–23
58.4201	G	58.4–13	55/56/57.4–23
			55/56/57.4–24
			55/56/57.4–26
58.4202	G	58.4–14	55/56/57.4–25
58.4203	G	58.4–15	55/56/57.4–24
58.4230	S	58.4–16	55/56/57.4–27
58.4260	U	58.4–17	57.4–27
58.4261	U	58.4–18	57.4–63
58.4262	U	58.4–19	57.4–55
58.4263	U	58.4–20	57.4–66
58.4330	S	58.4–21	55/56/57.4–39B
		58.4–22	55/56/57.4–40
58.4331	S	58.4–23	55/56/57.4–39B
58.4360	U	58.4–24	57.4–51
58.4361	U	None	57.4–74
58.4362	U	58.4–25	57.4–73
58.4363	U	58.4–26	57.4–72
58.4400	G	58.4–31	55/56/57.4–14
		58.4–32	55/56/57.4–15
58.4401	G	58.4–33	55/56/57.4–5
58.4402	G	58.4–34	55/56/57.4–4
58.4430	S	58.4–35	55/56/57.4–4
58.4431	S	58.4–36	57.4–46
58.4461	U	58.4–37	57.4–4
			57.4–52
58.4462	U	58.4–38	57.4–52
58.4463	U	58.4–39	57.4–54
58.4464	U	58.4–40	57.4–53
58.4500	G	58.4–41	55/56/57.4–9
			55/56/57.4–10
58.4501	G	58.4–42	55/56/57.4–8
58.4502	G	58.4–43	55/56/57.4–20
58.4503	G	58.4–49	57.5–19B
			57.5–22
58.4504	G	58.4–50	57.4–8
58.4530	S	58.4–44	55/56/57.4–41
58.4531	S	58.4–45	55/56/57.4–39A
58.4532	S	58.4–47	55/56/57.4–47
58.4533	S	58.4–46	57.4–45
58.4534	S	58.4–49	57.4–43
58.4560	U	58.4–51	57.4–62
58.4561	U	58.4–52	57.4–85
			57.4–86
58.4562	U	58.4–53	57.4–75
58.4600	G	58.4–62	55/56/57.4–29
			57.4–76
58.4601	G	58.4–63	55/56/57.4–18

DERIVATION TABLE—Continued

New No.	Scope [1]	Preproposal No.	Old No.
58.4602	G	58.4-64	55/56/57.4-19
58.4603	G	58.4-65	55/56/57.4-33
58.4604	G	58.4-8	55/56/57.4-35
58.4660	U	58.4-66	57.4-77
			57.4-78
58.4760	U	58.4-71	57.4-61A
58.4761	U	58.4-72	57.4-61B

[1] In this table the scope of each standard is indicated as follows: "G"—general, all areas of any mine; "S"—surface areas of any mine; and "U"—underground areas of underground mines.

III. Drafting Information

The principal persons responsible for preparing this proposed rule are: David J. Park, Metal and Nonmetal Mine Safety and Health, MSHA; Richard V. Zeutenhorst, Office of Standards, Regulations, and Variances, MSHA; and Eva L. Clark, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared an initial analysis to indentify potential costs and benefits asssociated with the proposed changes to its fire protection and control standards for metal and nonmetal mines. The Agency has incorporated this analysis into the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this Analysis, summarized below, MSHA has determined that the proposed rule would not result in major cost increases nor have an effect of $100,000,000 or more on the economy. The rule does not meet the criteria for a major rule, and therefore a Regulatory Impact Analysis in not necessary.

The Regulatory Flexibility Act requires that, in developing regulatory proposals, agencies should evaluate and include, wherever possible, compliance alternatives which minimize any adverse impact on small businesses. This proposed rule contains many alternatives to the existing regulations, some of which would especially benefit small mining operations. In addition, the proposals would clarify compliance responsibilites and adopt performance-oriented standards.

In the following summary of the Initial Regulatory Flexibility Analysis, MSHA has compared the costs and benefits associated with the proposed requirements with the costs of the existing requirements. A copy of the full analysis is available upon request.

MSHA estimates that annual recurring costs for compliance with the existing requirements amount to approximately $6.5 million. Estimated recurring costs for the proposed requirements would amount to $6.2 million. Capital expenditures for compliance with the existing standards have amounted to approximately $34 million. MSHA estimates that these capital expenditures would have amounted to $28.8 million under the proposed rule. Major reductions in capital expenditures are associated with the proposed requirements for fire extinguishers on surface self-propelled equipment and use of fire control doors underground. The proposed regulations would affect about 13,000 mining operations. MSHA estimates that approximately 10,000 of these mines are small businesses. For purposes of the Regulatory Flexibility Act, MSHA has defined small business entities as mines with fewer than 20 employees. The proposed rule does not represent a significant economic impact on a substantial number of small businesses under the Regulatory Flexibility Act.

In developing cost estimates, MSHA has taken into consideration industry-wide safety practices. Current compliance costs are related to the following requirements: labor, equipment purchase and maintenance, and recordkeeping. In calculating the costs of the proposed rule, the agency projected capital expenditures and recurring costs.

In the proposed rule, MSHA has reorganized, updated, and clarified existing provisions. The Agency has also proposed deleting existing duplicative provisions and replaced all recordkeeping requirements with certification provisions.

The primary benefit of the proposed rule is the protection that the standards would provide to persons who could be endangered by a fire at surface or underground operations. The proposed rule would reduce costs to the mining industry through alternative compliance methods without diminishing the safety of the persons who work at the Nation's mines. In addition, several proposed standards would accommodate advances in mining technology, especially in the area of automatic fire suppression systems.

V. Paperwork Reduction Act

All recordkeeping provisions in the existing requirements would be changed to certification requirements in the proposed rule.

List of Subjects in 30 CFR Part 58

Mine safety and health, Metal and nonmetal mining, Fire prevention and control.

Dated: September 27, 1983.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

It is proposed to redesignate certain standards in §§ 55.4, 56.4, and 57.4, Chapter I, Title 30 of the Code of Federal Regulations, as a new Part 58 and to revise the redesignated standards. Certain definitions in §§ 55.2, 56.2, and 57.2 are replicated and revised in new Part 58.

1. It is proposed to add a new Part 58 to Subchapter N—Metal and Nonmetal Mine Safety and Health, Chapter I, Title 30 of the Code of Federal Regulations as follows:

PART 58—METAL AND NONMETAL MINE SAFETY AND HEALTH

Subpart A—General

Sec.

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Firefighting Procedures/Alarms/Drills

58.4330 (S) Surface procedures.
58.4331 (S) Firefighting drills.
58.4360 (U) Underground alarm systems.
58.4361 (U) Underground evacuation instruction.
58.4362 (U) Underground evacuation drills.
58.4363 (U) Rescue and firefighting operations.

Flammable and Combustible Liquids and Gases

Installation/Construction/Maintenance

Welding/Cutting/Compressed Gases

Ventilation Control Measures

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811).

Subpart A—General

§ 58.1 Purpose and scope.

This Part 58 sets forth mandatory safety and health standards for each metal or nonmetal mine subject to the Federal Mine Safety and Health Act of 1977. Following each standard number is a scope symbol indicating the applicable mine area: "(G)"—general, all areas of any mine; "(S)"—surface areas of any mine; or "(U)"—underground areas of mines.

Subpart B—[Reserved]

Subpart C—Fire Prevention and Control

§ 58.4000 Definitions.

The following definitions apply in this subpart.

Combustible. A material that, in the form in which it is used and under the conditions anticipated, will ignite, burn support combustion, or release flammable vapors when subjected to fire or heat, wood, paper, rubber, and plastics are examples of combustibles.

Combustible liquids. Liquids having a flash point at or above 100° F (37.8° C) which are divided into the following classes:

Class II liquids include those having flash points at or above 100° F (37.8° C) and below 140° F (60° C).

Class IIIA liquids include thos having flash points at or above 140° F (60° C) and below 200° F (93.4° C).

Class IIIB liquids include those having flash points at or above 200° F (93.4° C).

Escapeway. A passageway by which persons can leave an underground mine.

Fire resistance rating. The time, in minutes or hours, that materials or assemblies will retain their protective characteristics or structural integrity upon exposure to fire.

Flame spread rating. The numerical designation of a material obtained by laboratory test that indicates the extent flame will spread over the surface of the material during a specified period of time. The flame spread rating depends upon such factors as composition of the material, quantity of combustible vapors produced, and the surface characteristics of the material.

Flammable liquid. A liquid having a flash point below 100°F (37.8° C) and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100°F (37.8° C) and is known as a Class I liquid.

Flash point. The minimum temperature at which sufficient vapor is released by a liquid to form a flammable vapor-air mixture near the surface of the liquid.

Main fan. A fan that controls the entire airflow of an underground mine or the airflow of one of the major air circuits of the mine.

Major electrical installation. An assemblage of stationary electric equipment for the generation, transmission, distribution, or conversion of electric power.

Mine opening. Any opening or entrance from the surface into an underground mine.

Multipurpose dry-chemical fire extinguisher. An extinguisher having a minimum rating of 2–A:10–B:C and containing a nominal 4.5 pounds of dry-chemical agent.

Noncombustible. A material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Safety can. A container of not over five gallons capacity with a spring-closing lid and spout cover.

Prohibitions/Precautions/Housekeeping

§ 58.4100 (G) Smoking and use of open flames.

No person shall smoke or use an open flame where flammable or combustible liquids or gases, including greases, are:

(a) Used in a manner that creates a fire hazard; or

(b) Stored, transported, or handled.

§ 58.4101 (G) Warning signs.

Readily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists.

§ 58.4102 (G) Spillage.

Flammable or combustible liquid spillage shall be removed or controlled as soon as practical. Drip pans shall be used at stationary barrels or tanks whenever leakage or spillage from dispensing of flammable or combustible liquids could create a fire hazard.

§ 58.4103 (G) Fueling internal combustion engines.

If the fuel tank is an integral part of the equipment, equipment powered by internal combustion engines, except diesel engines, shall be shut off before being fueled.

§ 58.4130 (S) Combustible waste.

Waste materials shall not accumulate in quantities that, if ignited, could create a fire hazard to persons. Waste or rags containing flammable or combustible liquids that, if ignited, could create a hazard to persons shall be placed in covered metal containers or containers with equivalent fire containment characteristics until disposed of properly.

§ 58.4131 (S) Surface electrical installations and unburied tanks.

Areas within 25 feet of major electrical installations or unburied tanks used for the storage of flammable or combustible liquids shall be kept free of dry vegetation, and no combustible materials shall be stored or allowed to accumulate within those areas.

§ 58.4132 (S) Fan installations and mine openings at underground mines.

(a) No more than one day's supply of combustible materials shall be stored within 100 feet of fan installations and mine openings. The one-day supply shall be kept at least 25 feet away from any mine opening.

(b) Dry vegetation shall not be permitted within 25 feet of mine openings.

§ 58.4160 (U) Underground electrical installations and unburied tanks.

Areas within 25 feet of major electrical installations and unburied tanks used for storage of combustible liquids shall be free of combustible materials. Installed wiring and coated timber are exempt from the requirements of this section, provided that the timber is coated with at least one inch of shotcrete, one-half inch of gunite, or other materials with equivalent fire protection characteristics.

§ 58.4161 (U) Use of fire underground.

Fires shall not be built underground, except for open-flame torches that shall be attended at all times while lit.

§ 58.4162 (U) Combustible waste underground.

Waste materials shall not accumulate in quantities that could create a fire hazard if ignited. Waste or rags containing flammable or combustible liquids shall be placed in covered metal containers until disposed of properly.

Firefighting Equipment

§ 58.4200 (G) General requirements.

(a) Each mine shall have available or be provided with firefighting equipment of the type, size, and quantity that can extinguish incipient fires of any class that could endanger persons as a result of the hazards present.

(b) Firefighting equipment provided at a mine shall be strategically located, readily accessible, plainly marked, and maintained in fire-ready condition.

§ 58.4201 (G) Inspection.

Firefighting equipment shall be inspected according to the following schedules:

(a) Fire extinguishers shall be visually inspected at least once a month. At least once every twelve months, maintenance checks shall be made of mechanical parts, the amount and condition of extinguishing agent and expellant, and the condition of the hose and nozzle. A hydrostatic testing schedule based on the manufacturer's specifications or equivalent specifications shall be established and followed to ensure the integrity of extinguishing agent vessels.

(b) Water pipes, valves, outlets, hydrants, and hoses that are part of the mine's firefighting system shall be inspected at least once every three months and use-tested at least once every twelve months.

(c) Fire suppression systems shall be inspected at least once every twelve months. An inspection schedule based on the manufacturer's specifications or equivalent specifications shall be established for individual components of a system and followed to ensure that the system remains functional. Surface fire suppression systems installed solely for the purpose of property protection are exempt from these inspection requirements.

(d) The person making the inspections and tests under this section shall certify that the inspections and tests have been made and the date on which they were made. Certifications shall be retained for one year.

§ 58.4202 (G) Fire hydrants.

If fire hydrants are part of the mine's firefighting system, the hydrants shall be provided with:

(a) Uniform fittings or readily available adapters for onsite firefighting equipment;

(b) Readily available wrenches or keys to open the valves; and

(c) Readily available adapters capable of connecting hydrant fittings to the hose equipment of any firefighting organization relied upon by the mine.

§ 58.4203 (G) Extinguisher replacement or recharging.

Promptly after any discharge, fire extinguishers shall be replaced with a fully charged extinguisher or recharged.

§ 58.4230 (S) Surface self-propelled equipment.

(a) Whenever self-propelled equipment is used and:

(1) A fire or its effects could impede escape from the equipment, a fire extinguisher shall be on the equipment.

(2) A fire or its effects would not impede escape from the equipment but could affect other people in the area, a fire extinguisher shall be on the equipment or within 100 feet of the equipment at all times.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually activated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish any class of incipient fire that could orginate from the equipment's inherent fire hazards. The fire extinguishers or the manual actuator for the suppression system shall be readily accessible to the equipment operator.

§ 58.4260 (U) Underground self-propelled equipment.

(a) Whenever self-propelled equipment is used, a fire extinguisher shall be on the equipment. This section does not apply to compressed-air powered equipment without any ignition sources.

(b) A fire suppression system may be used as an alternative to fire extinguishers if the system can be manually activated.

(c) Fire extinguishers or fire suppression systems shall be of a type and size that can extinguish any class of incipient fire that could originate from the equipment's inherent fire hazards. The fire extinguishers or the manual actuator for the suppression system shall be readily accessible to the equipment operator.

§ 58.4261 (U) Shaft-station waterlines.

Waterline outlets located at shaft stations shall have at least one fitting located for, and capable of, immediate connection to firefighting equipment.

§ 58.4262 (U) Installations with specific hazards.

Major electrical installations, storage and dispensing areas for combustible liquids, pump rooms, compressor rooms, and other installations with similar type fire hazards shall be provided with fire protection of a type, size, and quantity that can extinguish any class of incipient fire that could occure as a result of the hazards present.

§ 58.4263 (U) Belt conveyors.

Fire protection shall be provided at the head, tail, drive, and take-up pulleys of belt conveyors. Provisions shall be made for extinguishing incipient fires along the beltline. Fire protection shall be of a type, size, and quantity that can extinguish any class of incipient fire that could occur as a result of the fire hazards present.

Firefighting Procedures/Alarms/Drills

§ 58.4330 (S) Surface procedures.

(a) Each mine shall establish in advance emergency firefighting, evacuation, and rescue procedures. These procedures shall be coordinated with available firefighting organizations.

(b) Fire alarm procedures or fire alarm systems shall be established to promptly warn every person who could be endangered by a fire.

(c) Fire alarm systems shall be maintained in operation condition.

§ 58.4331 (S) Firefighting drills.

Emergency firefighting drills shall be held at least once every six months for persons assigned firefighting responsibilities by the mine operator.

§ 58.4360 (U) Underground alarm systems.

(a) Fire alarm systems capable of promptly warning every persons underground, except as provided in paragraph (b), shall be provided and maintained in operating condition.

(b) If persons are assigned to remote work areas beyond the warning capabilities of the system, provisions shall be made to alert them in a manner to ensure safe evacuation in the event of a fire.

§ 58.4361 (U) Underground evacuation instruction.

(a) At least once every twelve months, all persons who work underground shall be instructed in the escape and evacuation plans and procedures and fire warning signals in effect at the mine.

(b) Whenever a change is made in escape and evacuation plans and procedures for any area of the mine, all affected persons shall be instructed in the new plans or procedures.

(c) Whenever a person is assigned to work in another area of the mine, the person shall be instructed about the escapeway for that area at the time of such assignment. However, persons who normally work in more than one area of the mine shall be instructed at least once every twelve months about the location of escapeways for all areas of the mine in which they normally work or travel.

(d) At the completion of any instruction given under this section, the mine operator shall certify the date that the instruction was given. Certifications shall be retained for at least one year.

§ 58.4362 (U) Underground evacuation drills.

(a) Mine evacuation drills shall be held for each shift at least once every six months at some time other than a shift change. These evacuation drills shall involve all persons on each shift and shall include:

(1) Activation of the fire alarm system; and

(2) Evacuation of all persons from their work areas to the surface or to designated central evacuation points.

(b) At the completion of each drill, the mine operator shall certify the date and the time the evacuation began and ended. Certifications shall be retained for at least one year after each drill

§ 58.4363 (U) Rescue and firefighting operations.

Folllowing evacuation of a mine in a fire emergency, only persons wearing and trained in the use of mine rescue apparatus shall participate in rescue and firefighting operations in advance of the fresh air base.

Flammable and Comoustible Liquids and Gases

§ 58.4400 (G) Use restrictions.

(a) Flammable liquids shall not be used for cleaning.

(b) Solvents shall not be used near an open flame or other ignition source, near any source of heat, or in an atmosphere that can elevate the temperature of the solvent above the flash point.

§ 58.4401 (G) Storage tank foundations.

Fixed unburied tanks used for surface storage of flammable or combustible liquids or underground storage of combustible liquids shall be securely mounted on firm foundations. Where necessary to prevent leaks caused by tanks settling, piping shall be provided with flexible connections or other special fittings.

§ 58.4402 (G) Safety can use.

Small quantities of flammable liquids drawn from storage shall be kept in safety cans labeled to indicate the contents.

§ 58.4430 (S) Surface storage.

When flammable or combustible liquids are stored in fixed or portable tanks, the requirements listed below shall apply. Under this section a tank means any container exceeding 60 gallons in capacity.

(a) The tanks shall be:

(1) Designed and built in accordance with recognized engineering practices to ensure they are capable of withstanding working pressures and stresses and are compatible with the type of liquid stored;

(2) Maintained in a manner that prevents leakage;

(3) Isolated or separated from ignition sources to prevent fire or explosion; and

(4) Vented to prevent development of pressure or vaccum as a result of filling, emptying, or atmospheric temperature changes. Vents for storage of Class I, II or IIIA liquids shall be isolated or separated from ignition sources. Vents on fixed tanks used for Class I liquid storage shall be no less than 1¼ inch in diameter.

(b) All piping, valves, and fittings shall:

(1) Capable of withstanding working pressures and stresses;

(2) Compatible with the type of liquid stored; and

(3) Maintained in a manner which prevents leakage.

(c) Fixed tanks located above ground where escaping liquid could present a hazard to persons shall be surrounded by diking that provides containment for the entire capacity of the largest tank. Storage of only Class IIIB liquids does not require diking.

§ 58.4431 Surface storage restrictions at underground mines.

(a) No unburied flammable or combustible liquids or gases shall be stored within 100 feet of the following:

(1) Mine openings or structures attached to mine openings.

(2) Fan installations for underground ventilation.

(3) Hoist houses.

(b) Under this section, the following may be stored in the hoist house if solely used to maintain the hoist machinery:

(1) Flammable liquids stored in safety cans or tightly closed cabinets. The safety cans and cabinets shall be kept away from any heat source and labeled "flammables."

(2) Combustible liquids stored in closed containers. The containers shall be kept away from any heat source and the hoist operator's work station.

§ 58.4461 (U) Underground storage of flammable liquids.

(a) Flammable liquids shall not be stored underground, except:

(1) Small quantities stored in tightly closed cabinets away from any heat source. The small quantities shall be stored in safety cans or in non-glass containers of a capacity equal to or less than a safety can. The cabinets shall be labeled "flammables."

(2) Acetylene and liquefied petroleum gases stored in containers designed for that specific purposes.

(b) Gasoline shall not be stored underground in any quantity.

§ 58.4462 (U) Gasoline use restrictions.

If gasoline is used to power internal combustion engines:

(a) The mine shall be nongassy and shall have multiple horizontal or incline roadways from the surface large enough to accommodate vehicular traffic;

(b) All roadways and other openings shall connect with another opening every 100 feet by a passage large enough to accommodate any vehicle in the mine; and

(c) No roadway or other opening shall be supported or lined with wood or other combustible materials.

§ 58.4463 (U) Underground storage of combustible liquids.

(a) Combustible liquids, including oil or grease, shall be stored in non-glass containers:

(1) Designed in accordance with recognized engineering practices to hold the type of liquid stored and constructed of materials compatible with that liquid;

(2) Maintained in a manner that prevents leakage;

(3) Located in areas free of combustible materials or in areas where any exposed combustible materials are coated with one inch of shotcrete, one-half inch of gunite, or other noncombustible material with equivalent fire protection characteristics; and

(4) Separated from ignition sources, explosives or blasting agents, major electrical installations, and shaft stations.

(b) At permanent storage areas for combustible liquids, means shall be provided for confinement or removal of the contents of the largest tank in the event of tank rupture. Under this section, any container exceeding 60 gallons in capacity is a tank.

§ 58.4464 (U) Liquefied petroleum gases.

The use of liquefied petroleum gases shall be limited to maintenance work.

Installation/Construction/Maintenance

§ 58.4500 (G) Heat sources.

All heat sources capable of producing combustion, including lighting equipment, shall be separated from combustible materials.

§ 58.4501 (G) Storage tank fuel lines.

Fuel lines from storage tanks shall be equipped with valves capable of stopping the flow of fuel at the source and shall be located and maintained to minimize fire hazards.

§ 58.4502 (G) Battery-charging stations.

(a) Battery-charging stations shall be ventilated with a sufficient volume of air to prevent the accumulation of hydrogen gas.

(b) Smoking, use of open flames, or other activities that could create an ignition source shall be prohibited during battery charging.

(c) Signs prohibiting smoking or open flames shall be posted at battery-charging stations.

§ 58.4503 (G) Fan installations at underground mines.

(a) Areas within 25 feet of main fans and booster fans shall be free of combustible materials. Under this section, "booster fan" means a fan installed in the main airstream or a split of the main airstream to increase airflow through a section or sections of a mine.

(b) Fan houses, fan bulkheads for main and booster fans, and air ducts connecting main fans to underground openings shall be constructed of noncombustible materials.

(c) Timber coated with one inch of shotcrete, one-half inch of gunite, or other materials with equivalent fire protection charateristics are acceptable under this section.

(d) This section does not apply to installed wiring, ground and track support, headframes, and direct-fired heaters.

§ 58.4504 (G) Fule-line drainage.

Fuel lines into underground mines shall be drained at the completion of each transfer of fuel to underground tanks.

§ 58.4530 (S) Building exits.

Every building or structure in which persons work shall be provided with an exit or exits to permit prompt escape in case of fire.

§ 58.4531 (S) Flammable or combustible liquid storage in buildings or rooms.

(a) Buildings or rooms in which flammable or combustible liquids, including grease, are stored and that are within 100 feet of any person's work station shall be well-ventilated.

(b) In addition, the buildings or rooms shall be—

(1) Constructed to meet a fire resistance rating of at least one hour;

(2) Equipped with an automatic fire supression system; or

(3) Equipped with an early warning fire detection device that will alert any person who could be endangered by a fire, provided that the building does not contain any person's work station.

(c) This section does not apply to small quantities of flammable or combustible liquids used for day-to-day maintenance and operational activities.

§ 58.4532 (S) Surface belt conveyors.

Belt conveyors within confined areas that would restrict evacuation in the event of a fire resulting from belt-slippage shall be equipped with a detection system capable of automatically stopping the drive pulley. When it is necessary to operate the conveyor while temporarily by-passing the automatic function, a person shall attend the belt at the drive pulley.

§ 58.4533 (S) Blacksmith shops.

(a) At underground mines, blacksmith shops shall be:

(1) Located at least 100 feet from fan installations that are used for intake air and mine openings;

(2) Well-ventilated and equipped with exhaust vents over the forge; and

(3) Inspected for smoldering fires at the end of each shift.

(b) In addition, any blacksmith shop located within or adjacent to any structure that is within 100 feet of a mine opening or fan installation shall be:

(1) Constructed of noncombustible materials;

(2) Constructed to meet a fire-resistance rating of no less than one hour; or

(3) Provided with an automatic fire suppression system.

§ 58.4534 (S) Mine opening vicinity.

Within 100 feet of underground mine openings used for intake air or underground mine openings that are designated escapeways in exhaust air, buildings or other similar structures shall be:

(a) Constructed of noncombustible materials;

(b) Covered on all interior and exterior surfaces with noncombustible material or limited combustible material. An example of limited combustible material is five-eighth inch, type "X" gypsum wall board;

(c) Constructed to meet a fire-resistance rating of no less than one hour; or

(d) Protected by an automatic fire suppression system.

§ 58.4560 (U) Mine entrances.

For at least 200 feet inside the mine portal or collar, timber used for ground support in intake openings and in exhaust openings that are designated as escapeways under § 57.11 of this chapter shall be:

(a) Provided with a fire supression system, other than fire extinguishers and water hoses, capable of controlling an incipient fire;

(b) Covered with shotcrete, gunite, or other material with equivalent fire protection characteristics; or

(c) Coated with fire-retardant paint or other material to reduce its flame spread rating to 25 or less and maintained in that condition.

§ 58.4561 (U) Stationary diesel equipment.

Stationary diesel equipment shall be:

(a) Supported on a noncombustible base; and

(b) Provided with a thermal sensor that automatically stops the engine should overheating occur.

§ 58.4562 (U) Underground belt conveyors.

Belt conveyors shall be equipped with a detection system capable of automatically stopping the drive pulley

where slippage could cause ignition of the belt. When it is necessary to operate the conveyor while temporarily bypassing the automatic function, a person shall attend the belt at the drive pulley.

Welding/Cutting/Compressed Gases

§ 58.4600 (G) Extinguishing equipment.

When welding, cutting, soldering, thawing, or bending:

(a) With an electric arc, or with an open flame where an electrically conductive extinguishing agent could create an electrical hazard, a multipurpose dry-chemical fire extinguisher shall be at the worksite.

(b) With an open flame in an area where no electrical hazard exists, a multipurpose dry-chemical extinguisher or equivalent fire extinguishing equipment for the class of fire hazard present shall be at the worksite.

§ 59.4601 (G) Oxygen cylinder storage.

Oxygen cylinders shall not be stored in rooms or areas used or designated for storage of flammable or combustible liquids, including grease.

§ 58.4602 (G) Gages and regulators.

Gages and regulators used with oxygen or acetylene cylinders shall be kept clean and free of oil and grease.

§ 58.4603 (G) Closure of valves.

(a) To prevent accidental release of gases from hoses and torches attached to oxygen and acetylene tanks or to manifold systems, the tank or manifold system valves shall be closed when—

(1) The tanks are moved;

(2) The tanks or system is left unattended; or

(3) The task or series of tasks is completed.

(b) After the valves are closed, the hoses shall be relieved of residual pressure.

§ 58.4604 (G) Preparation of pipelines or containers.

Before welding, cutting, or applying heat with an open flame to pipelines or containers that have contained flammable or combustible liquids or gases, or explosive solids, the pipelines or containers shall be:

(a) Drained and ventilated;

(b) Vented to prevent pressure build-up during the application of heat;

(c) Thoroughly cleaned of any residue; and either

(d) Filled with an inert gas or water, where compatible; or be determined free of flammable gases by a flammable gas detection device prior to and at frequent intervals during the application of heat.

§ 58.4660 (U) Work in shafts, raises, winzes, or other special hazard areas.

When performing an operation described in Table 4–1, or when working in a shaft, raise, or inze while performing an activity that could ignite material by falling sparks or hot metal:

(a) A multipurpose dry-chemical fire extinguisher shall be at the worksite to supplement the fire extinguishing equipment required by § 58.4600; and

(b) At least one of the following actions shall be taken:

(1) Wet down the area before and after the operation, taking precaution against any hazard of electrical shock;

(2) Isolate any combustible material with noncombustible material;

(3) Shield the activity to ensure that hot metal and sparks do not result in a fire;

(4) Provide a second person to watch for and extinguish any fire; or

(5) Cover or bulkhead the opening immediately below and adjacent to the activity with noncombustible material to prevent sparks or hot metal from falling down the shaft, raise, or winze. This alternative applies only to activities involving a shaft, raise or winze.

(c) The affected area shall be inspected during the first hour after the operation is completed. Additional inspections shall be made or other fire prevention measures shall be taken if a fire hazard continues to exist.

TABLE 4–1.—OPERATIONS

Activity	Distance	Fire Hazard
Welding or cutting with an electric arc or open flame	Within thirty-five feet of—	More than one gallon of combustible liquid, unless in a closed, noncombustible metal container.
Using an open flame to bend or heat materials		More than fifty pounds of non-fire-retardant wood
Thawing pipes electrically, except with heat tape		More that ten pounds of combustible plastics.
Soldering or thawing with an open flame	Within ten feet to—	Materials in a shaft, raise, or winze that could be ignited by hot metal or sparks.

Ventilation Control Measures

§ 58.4760 (U) Shaft mines.

(a) To ensure the safety of all persons underground, shaft mines shall be provided with at least one of the following means to control the spread of fire, smoke, and toxic gases in the event of a fire: control doors, reversal of mechanical ventilation, or effective evacuation procedures. Under this section, "shaft mine" means a mine in which any designated escapeway includes a mechanical hoisting device or a ladder ascent.

(1) If used as an alternative, control doors shall be:

(i) Installed at or near shaft stations of intake shafts and any shaft designated as an escapeway under § 57.11 of this chapter, or at other locations that provide equivalent protection;

(ii) Constructed and maintained according to Table 4–2.

(iii) Provided with a means of remote closure at landings of timbered intake shafts unless a person specifically designated to close each door in the event of a fire can reach the door within three minutes;

(iv) Closed only according to predetermined conditions and procedures by a person designated by the mine operator;

(v) Constructed so that once closed they will not reopen as a result of a differential in air pressure;

(vi) Constructed so that they can be opened from either side by one person, or provided with a personnel door that can be opened from either side; and

(vii) Clear of obstructions.

(2) If used as an alternative, reversal of mechanical ventilation shall:

(i) Provide at all times at least the same degree of protection to persons underground as would be afforded by the installation of control doors;

(ii) Be accomplished by a main fan located on the surface. If the main fan is located underground, the fan shall be equipped with a second, independent power source to ensure uninterrupted power during a fire;

(iii) Be implemented with a motor-reversing switch or gates and ducts that ensure persons underground time to exit by the second escapeway or find a place of refuge; and

(iv) Be done according to established operating procedures by a person designated by the mine operator.

(3) If used as an alternative, effective evacuation shall be demonstrated by actual evacuation of all persons underground to the surface in ten minutes or less through routes that ensure that persons would not be exposed to heat, smoke, or toxic fumes in the event of a fire.

(b) If the destruction of any bulkhead on an inactive level would allow fire contaminants to reach an escapeway, the bulkhead shall be constructed and maintained to provide at least the same protection as required for control doors under Table 4–2.

TABLE 4–2.—CONTROL DOOR CONSTRUCTION

Location	Minimum Required Construction
At least 50 feet from: timbered areas, exposed combustible rock, and any other combustibles.	Ventilation door in conformance with § 57.5–31 of this chapter.
Within 50 feet but no closer than 20 feet of: timbered areas, exposed combustible rock, or other combustibles.	Control door that serves as a barrier to the effects of fire and air leakage. The control door shall provide protection at least equivalent to a door constructed of no less than one-quarter inch of plate steel with channel or angle-iron reinforcement to minimize warpage. The framework asembly of the door and the sourrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength.
Within 20 feet of: any timbered areas or combustible rock, provided that the timber and combustible rock within the 20 foot distance are coated with one inch of shotcrete, one half-inch of gunite, or other material with equivalent fire protection characteristics and no other combustibles are within that distance.	
Within 20 feet of: timbered areas, exposed combustible rock, or other combustibles.	Control door that serves as a barrier to fire, the effects of fire, and air-leakage. The door shall provide protection at least equivalent to a door constructed of two layers of wood, each a minimum of three-quarters of an inch in thickness. The wood grain of one layer shall be perpendicular to the wood-grain of the other layer. The wood construction shall be covered on all sides and edges with no less than twenty-four gauge sheet steel. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength. Roll-down steel doors with a fire-resistance rating of 1½ hours or greater, but without an insulation core, are acceptable provided that an automatic sprinkler or deluge system is installed that assures even coverage of the door on both sides.

§ 58.4761 (U) Underground shops.

To confine or prevent the spread of toxic gases from a fire originating in an underground shop where maintenance work is routinely done on mobile equipment, one of the following measures shall be taken: use of control doors or bulkheads, routing of the mine shop air directly to an exhaust system, reversal of mechanical ventilation, or use of an automatic fire suppression system. The alternative used shall at all times provide at least the same degree of safety as control doors.

(a) If used as an alternative, control doors or bulkheads shall meet the following requirements:

(1) Each control doors or bulkheads shall be constructed to serve as a barrier to fire, the effects of fire, and air leakage at each opening to the shop.

(2) Each control door shall be:

(i) Constructed so that, once closed, it will not reopen as a result of a differential in air pressure;

(ii) Constructed so that it can be open from either side by one person or be provided with a personnel door that can be opened from either side;

(iii) Clear of obstructions; and

(iv) Provided with a means of remote or automatic closure unless a person specifically designated to close the door in the event of a fire can reach the door within three minutes.

(3) If located 20 feet or more from exposed timber or other combustibles, the control doors or bulkheads shall provide protection at least equivalent to a door constructed of no less than one-quarter inch of plate steel with channel or angle-iron reinforcement to minimize warpage. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength.

(4) If located less than 20 feet from exposed timber or other combustibles, the control door or bulkhead shall provide protection at least equivalent to a door constructed of two layers of wood, each a minimum of three-quarters of an inch in thickness. The wood-grain on one layer shall be perpendicular to the wood-grain of the other layer. The wood construction shall be covered on all sides and edges with no less than twenty-four gauge sheet steel. The framework assembly of the door and the surrounding bulkhead, if any, shall be at least equivalent to the door in fire and air-leakage resistance, and in physical strength. Rolldown steel doors with a fire-resistance, and a physical rating of 1½ hours or greater, but without an insulation core, are acceptable provided that an automatic sprinkler or deluge system in installed that assures even coverage of the door on both sides.

(b) If used as an alternative, routing the mine shop exhaust air directly to an exhaust system shall be done so that no person would be exposed to toxic gases.

(c) If used as an alternative, reversal of mechanical ventilation shall:

(1) Be accomplished by a main fan located on the surface; or, if underground, the fan shall be equipped with a second independent power source to ensure uninterrupted power during a fire;

(2) Be implemented with a motor-reversing switch or gates and ducts that ensure persons underground time to exit by the second escapeway or find a place of refuge; and

(3) Be done according to established operating procedures by a person designated by the mine operator.

(d) If used as an alternative, an automatic fire supression system shall be:

(1) Located in the shop area;

(2) Used in conjunction with an alternate escape route that by-passes the shop area and that would not be affected by a fire in the shop area;

(3) The appropriate size and type for the particular fire hazard involved; and

(4) Inspected at weekly intervals and properly maintained.

Appendix I to Subpart C—National Consensus Standards

Mine operators seeking further information in the area of fire prevention and control may consult the following national consensus standards.

MSHA standard	National consensus standard
§§ 58.4200, 58.4201, 58.4262, and 58.4263	NFPA No. 10—Portable Fire Extinguisher. NFPA No. 11—Foam Extinguishing Systems. NFPA No. 11A—High Expansion Foam Systems. NFPA No. 11B—Synthetic Foam and Combined Agent Systems. NFPA No. 12—Carbon Dioxide Extinguishing Systems. NFPA No. 12A—Halon 1301 Extinguishing Systems. NFPA No. 13—Water Sprinkler Systems. NFPA No. 14—Standpipe and Hose Systems. NFPA No. 15—Water Spray Fixed Systems. NFPA No. 16—Foam Water Spray Systems. NFPA No. 17—Dry-Chemical Extinguishing System. NFPA No. 121—Mobile Surface Mining Equipment. NFPA No. 291—Testing and Marking Hydrants. NFPA No. 1962—Care, Use, and Maintenance of Fire Hose, Connections, and Nozzles.
§ 58.4202	NFPA No. 14—Standpipe and Hose System. NFPA No. 291—Testing and Marking Hydrants.
§ 58.4203	NFPA No. 10—Portable Fire Extinguishers.
§ 58.4230	NFPA No. 10—Portable Fire Extinguishers. NFPA No. 121—Mobile Surface Mining Equipment.
§ 58.4260	NFPA No. 10—Portable Fire Extinguishers.
§ 58.4261	NFPA No. 14—Standpipe and Hose Systems.
§ 58.4560	ASTM E-162—Surface Flammability of Materials Using a Radiant Heat Energy Source.

Appendix II to Subpart C—Hydrostatic Test Intervals

The following recommended hydrostatic test intervals for fire extinguishers are intended as nonmandatory guidelines to assist mine operators in complying with § 58.4201.

Extinguisher type	Test interval (years)
Soda Acid	5
Cartridge-Operated Water and/or Antifreeze	5
Stored-Pressure Water and/or Antifreeze	5
Wetting Agent	5
Foam	5
AFFF (Aqueous Film Forming Foam)	5
Loaded Stream	5
Dry-Chemical with Stainless Steel Shells	5
Carbon Dioxide	5
Dry-Chemical, Stored Pressure, with Mild Steel Shells, Brazed Brass Shells, or Aluminum Shells	12
Dry-Chemical, Cartridge or Cylinder Oeprated, with Mild Steel Shells	12
Bromotrifluoromethane-halon 1301	12
Bromochlorodifluoromethane-Halon 1211	12
Dry-Powder, Cartridge or Cylinder-Operated, with Mild Steel Shells	12

2. It is proposed to remove or redesignate and revise the standards listed in the following table:

REDESIGNATION TABLE

Old No.[1]	New No.
55/56/57.4-1	58.4100
55/56/57.4-2	58.4101
55/56/57.4-3	58.4131
	58.4160
55/56/57.4-4	58.4402
	58.4430
	58.4461
55/56/57.4-5	58.4401
55/56/57.4-7	58.4102
55/56/57.4-8	58.4501
	58.4504
55/56/57.4-9	58.4500
55/56/57.4-10	58.4500
55/56/57.4-11	55/56/57.4-11
55/56/57.4-12	58.4130
	58.4162
55/56/57.4-13	58.4130
	58.4162
55/56/57.4-14	58.4400
55/56/57.4-15	58.4400
55/56/57.4-16	58.4102
55/56/57.4-18	58.4601
55/56/57.4-19	58.4602
55/56/57.4-20	58.4502
55/56/57.4-21	58.4103
55/56/57.4-22	58.4200
55/56/57.4-23	58.4200
	58.4201
55/56/57.4-24	58.4201
	58.4203
55/56/57.4-25	58.4202
55/56/57.4-26	58.4201
55/56/57.4-27	58.4230
	58.4260
55/56/57.4-28	Remove
55/56/57.4-29	58.4600
55/56/57.4-33	58.4603
55/56/57.4-35	58.4604
55/56/57.4-39A	58.4531

REDESIGNATION TABLE—Continued

Old No.[1]	New No.
55/56/57.4-39B	58.4330
	58.4331
55/56/57.4-40	58.4330
55/56/57.4-41	58.4530
57.4-42	58.4132
57.4-43	58.4534
57.4-45	58.4533
57.4-46	58.4431
55/56/57.4-47	58.4532
55/56/57.4-48	Remove
57.4-50	58.4162
57.4-51	58.4360
57.4-52	58.4461
	58.4462
57.4-53	58.4464
57.4-54	58.4463
57.4-55	58.4262
57.4-57	57.4-57
57.4-58	58.4161
57.4-61A	58.4760
57.4-61B	58.4761
57.4-62	58.4560
57.4-63	58.4261
57.4-66	58.4263
57.4-72	58.4363
57.4-73	58.4362
57.4-74	58.4361
57.4-75	58.4562
57.4-76	58.4600
57.4-77	58.4660
57.4-78	58.4660
57.4-85	58.4561
57.4-86	58.4561
57.5-18B	58.4503
57.5-22	58.4503

[1] Standards that uniformly appear in 30 CFR 55, 56, and 57 are referred to in this table as "55/56/57."

[FR Doc. 83-26915 Filed 10-3-83; 8:45 am]
BILLING CODE 4510-43-M

Federal Register

Tuesday
October 4, 1983

Part III

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report increases to amounts previously deferred totaling $64,119,643.

The deferral increases affect the Board for International Broadcasting and the United States Information Agency.

The details of the deferrals are contained in the attached reports.

Ronald Reagan,

The White House,
September 28, 1983.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

Deferral #	Item	Budget Authority
	Other Independent Agencies	
	Board for International Broadcasting	
D83-79A	Grants and expenses	5,092
	United States Information Agency	
	Acquisition and construction of radio	
D83-68A	facilities	59,028
	Total, deferrals	64,120

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(In thousands of dollars)

	Rescissions	Deferrals
Twelft. special message		
New items	---	---
Change to amounts previously submitted	---	48,498
Effects of twelfth special message	---	48,498
Amounts previously submitted that were changed by this message	---	15,622
Total, rescissions and deferrals	---	64,120
Amounts previously submitted that were not changed by this message	1,569,015 1/	13,543,723
Total amount proposed to date in all special messages	1,569,015 1/	13,623,630 2/

1/ This amount includes $23,400,000 in current budget authority for the rural telephone bank that is offset by a corresponding increase in permanent budget authority (R83-20).
2/ All amounts listed represent budget authority except for $15,944,000 of outlays only in one general revenue sharing deferral (D83-168).

D83-68A

Supplementary Report

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D83-68, transmitted to the Congress on July 7, 1983.

This revision reflects a change in the amount deferred as of August 26, 1983 from $12,437,000 to $59,027,550. The deferral increase is needed because additional funding in the Supplemental Appropriations Act, 1983 (P.L. 98-63) was provided late in the year and delays have also been experienced in obtaining needed site agreements and engineering studies.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 1512). The funds are being reserved in accordance with the above Act.

Deferral No: 083-68A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: United States Information Agency	New budget authority (P.L. 97-377; 98-63): $ 35,800,000 *
Bureau:	Other budgetary resources: 13,822,132
Appropriation title & symbol: Acquisition and Construction of Radio Facilities, USIA 67X0204	Total budgetary resources: 49,622,132 *
	Amount to be deferred: Part of year: ____ Entire year: 59,027,550 *
OMB identification code: 67-0204-0-1-154	Legal authority (in addition to sec. 1012): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: *The Continuing Appropriations Act, 1983 (P.L. 97-377, approved December 21, 1982), and the Supplemental Appropriations Act, 1983 (P.L. 98-63, approved July 30, 1983) appropriated $35,800,000 to remain available until expended for the Acquisition and construction of radio facilities account primarily to enhance the transmitting capacity of the Voice of America's (VOA) world-wide broadcasting system.

*This $35,800,000 together with funds appropriated in prior years will be used to maintain and improve existing VOA facilities and to modernize and expand transmitter facilities in East Asia, Africa, the Near East, and Europe. In addition to the $12,437,000 deferred earlier this fiscal year, it is now estimated that an additional $46,590,550 will not be obligated before September 30, 1983. These funds cannot be obligated due to difficulties encountered in achieving certain required host country agreements and delays in completing the preliminary engineering analyses that will identify and examine the overall performance requirements of VOA's transmitting facilities on a world-wide integrated systems basis. Funds included in the 1983 Supplemental Appropriation for acquisition of data processing and text editing equipment will not be obligated because there is insufficient time to conduct competitive procurement procedures. These funds will be used in succeeding years.

083-68A

*This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 1512). The funds are being reserved in accordance with the above Act.

*Estimated Effects: None. The amount deferred has no programmatic effects because it could not be obligated before fiscal year 1984.

*Outlay Effect: There is no outlay effect from this deferral because the funds would not be obligated if made available.

* Revised from previous report.

083-79A

Supplementary Report

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. 083-79, transmitted to the Congress on July 7,1983.

This revision reflects a change in the amount deferred as of August 26, 1983 from $3,185,142 to $5,092,093. The deferral increase of $1,906,951 represents foreign exchange gains of Radio Free Europe/Radio Liberty during the third quarter of 1983. These funds will be used to offset any currency exchange losses occurring during the remainder of the year.

This deferral action is taken in accordance with the International Broadcasting Act of 1973, and the Antideficiency Act (31 U.S.C. 1512).

Deferral No: 083-79A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Board for International Broadcasting	New budget authority (P.L. 97-377,98-63): $ 38,317,000 *
Bureau:	Other budgetary resources: 38,317,000 * 1/
Appropriation title & symbol: Grants and Expenses 9631145 1/	Total budgetary resources:
	Amount to be deferred: Part of year: 5,092,093 *
	Entire year:
OMB identification code: 95-1145-0-1-154	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other 22 USC 2871-2877
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: *The Board, in accordance with regulations established jointly by the Board and the Office of Management and Budget, reported that as of the end of the third quarter of 1983 the net currency exchange gains totaled $5,092,093. Therefore, funds totaling $5,092,093 are deferred. These funds will be used to offset any currency exchange losses occurring later in the year.

This deferral action is taken in accordance with the International Broadcasting Act of 1973, and the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: No programmatic effect results from this deferral since program levels of Radio Free Europe/Radio Liberty will be maintained in 1983.

Outlay Effect: If there are no exchange rate losses in the remainder of 1983 the reported exchange rate gains and resulting deferral will reduce outlays by $5,092,093 while maintaining the current program level. These outlay savings will be offset by the amount of any exchange rate losses.

* Revised from previous report.
1/ This account was the subject of a similar deferral in FY 1982 (082-248).
2/ In addition, $3,394,674 is not available pursuant to P.L. 94-350 and $13,283,000 is not available pursuant to P.L. 98-63.

[FR Doc. 83-27036 Filed 10-3-83; 8:45 am]
BILLING CODE 3110-01-C

federal register

Tuesday
October 4, 1983

Part IV

Department of the Treasury

Internal Revenue Service

Due Diligence and Certification Requirements With Respect to Taxpayer Identification Numbers and Backup Withholding, Temporary Regulations

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

[T.D. 7916]

Due diligence and certification requirements with respect to taxpayer identification numbers and backup withholding

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the due diligence and certification requirements with respect to taxpayer identification numbers and backup withholding. Changes to the applicable tax law were made by the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 369). These regulations affect payors and payees of reportable interest, dividends, and patronage dividends and brokers and provide them with the guidance necessary to comply with the law.

DATE: The temporary regulations are effective for payments made after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Diane Kroupa of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202-566-3829).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the due diligence and certification requirements of payors and payees of reportable interest, dividends and patronage dividends and brokers. Section 3406 was added to the Internal Revenue Code of 1954 by section 104 of the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 371), and section 6676 of the Code was amended by section 105 of the Act (Pub. L. 98-67, 97 Stat. 380). As these provisions are generally effective for payments made after December 31, 1983, there is a need for immediate guidance so that payors and payees can make preparations to comply with these provisions. A new Part 35a, Temporary Employment Tax Regulations under the Interest and Dividend Tax Compliance Act of 1983, is added by this document to Title 26 of the Code of Federal Regulations.

It is expected that further temporary regulations with a cross-reference to a notice of proposed rulemaking will be published in the near future containing additional rules relating to backup withholding. The temporary regulations contained in this document will remain in effect until superseded by final regulations on this subject.

These temporary regulations, presented in question and answer format, are intended to provide guidelines upon which payors and payees of reportable interest, dividend, and patronage dividend payments may rely in order to resolve questions specifically set forth herein. However, no inference should be drawn regarding issues not raised herein or reasons certain questions, and not others, are included in these regulations.

Nonapplicability of Executive Order 12291

The Treasury Department 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 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 533(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

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

List of Subjects in 26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividend Tax Compliance Act of 1983.

Adoption of amendments to the regulations

Accordingly, a new Part 35a consisting of § 35a.9999-1 is added to Title 26 of the Code of Federal Regulations. The new provision reads as follows:

PART 35a—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983

§ 35a.9999-1 Questions and answers concerning the due diligence requirement and the certification requirements in connection with backup withholding and other related issues.

The following questions and answers principally concern the due diligence exception to the penalty on payors of reportable interest or dividend payments for failure to provide the payee's correct taxpayer identification number on certain information returns and the certification requirements in connection with backup withholding under the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 369):

In general

Q-1. What payors are subject to the new due diligence requirement with respect to their obligation to provide payees' correct taxpayer identification numbers on information returns?

A-1. Payors of reportable interest or dividend payments are subject to the new due diligence requirement.

Q-2. What is a reportable interest or dividend payment?

A-2. A reportable interest or dividend payment is a payment of interest, dividends, or patronage dividends that is of a kind, and to a payee, that is subject to information reporting.

Imposition of penalty for failure to provide a correct taxpayer identification number

Q-3. Is a payor subject to a penalty for failure to provide a correct taxpayer identification number on an information return with respect to a reportable interest or dividend payment if the payee has certified, under penalties of perjury, that the taxpayer identification number furnished to the payor is the payee's correct number, the payor provided that number on an information return, and the number is later determined not to be the payee's correct number?

A-3. No. A payor is not subject to a penalty for failure to provide the payee's correct taxpayer identification number on an information return, if the payee has certified, under penalties of perjury, that the taxpayer identification number provided to the payor was his correct number, and the payor included such number on the information return.

Q-4. Is a payor subject to a penalty for failure to provide a correct taxpayer identification number on an information

return if the payee does not certify, under penalties of perjury, that the taypayer identification number provided to the payor is correct, and the number is later determined not to be the payee's correct number?

A–4. A payor is subject to a penalty if the taxpayer identification number of a payee provided on an information return is determined not to be the payee's correct number, unless the payor exercised due diligence in soliciting the payee's correct taxpayer identification number and in furnishing such number on the information return.

Due diligence defined for pre-1984 accounts and instruments

Q–5. In order for a payor of a reportable interest or dividend payment to be considered to have exercised due diligence in furnishing the correct taxpayer identification number of a payee with respect to a pre-1984 account or instrument, what actions must the payor take?

A–5. First, by the applicable date provided in A–6, the payor must send a separate mailing by first-class mail to any payee who has not previously certified, under penalties of perjury, that the taxpayer identification number furnished to the payor is the payee's correct number. This mailing must contain a notice that: (1) Informs the payee what a taxpayer identification number is, (2) advises the payee that he must provide a correct taxpayer identification number to the payor, (3) states that if the payee has not furnished a correct taxpayer identification number to the payor the payee may be subject to a $50 penalty and that payments to the payee may be subject to backup withholding starting on January 1, 1984, and (4) advises the payee how to provide a correct taxpayer identification number to the payor. The form of the notice is described in A–7. The payor must also include in the mailing a postage-prepaid reply envelope and a certification form on which the payee may certify, under penalties of perjury, that he is furnishing his correct taxpayer identification number to the payor. The specific requirements for the form of this certification are set forth in A–9 and A–10.

Second, in the case of a pre-1984 account or instrument for which the payee has provided no taxpayer identification number or for which the taxpayer identification number provided is obviously incorrect (*i.e.*, contains an incorrect number of digits), the payor must have commenced backup withholding on payments made after December 31, 1983.

Third, the payor must use the same care in processing taxpayer identification numbers provided by payees that a reasonably prudent payor would use in the course of the payor's business in handling account information, such as account numbers and account balances.

Fourth, the payor must send a mailing in each year subsequent to 1983 to payees who have not by that time provided a taxpayer identification number under penalties of perjury. This mailing need not be sent separately from other mail to the payee. This mailing also need not contain a postage-prepaid reply envelope. The payor is required to process responses to this mailing in the same manner described in the preceding paragraph.

Q–6. In order to be considered to have exercised due diligence in soliciting the payee's taxpayer identification number, by what date must the payor send the separate mailing described in A–5 to a payee who has not previously provided his correct taxpayer identification number to the payor under penalties of perjury?

A–6. The separate mailing must be made on or before December 31, 1983, unless the payor complies with the alternative procedure set forth in the following two paragraphs.

A payor may defer the separate mailing referred to above, *Provided*, That the payor: (1) Sends a separate mailing by December 31, 1983, to all payees who have not furnished a taxpayer identification number to the payor or who have furnished an obviously incorrect number; (2) sends a mailing, which need not be separate from other mail, on or before December 31, 1983, to all other payees who have not previously provided their taxpayer identification numbers to the payor under penalties of perjury; and (3) sends, on or before March 31, 1984, a separate mailing to all payees who have not by that date certified under penalties of perjury that their taxpayer identification numbers provided to the payor are correct.

The separate and nonseparate mailing required in 1983 and the separate mailing required on or before March 31, 1984, must include the notice, certification form, and postage-prepaid reply envelope as required in A–5. Any separate mailing made in 1984 pursuant to the prior paragraph does not replace a 1984 nonseparate mailing that is otherwise required by the fourth paragraph of A–5.

Q–7. In what form should the payor notify the payee of the information set forth in A–5 and solicit the payee's correct taxpayer identification number, in order to satisfy the due diligence requirement with respect to a pre-1984 account or instrument?

A–7. The notice will satisfy the requirement of A–5 if it is conspicuous and contains language substantially similar to the following:

Important New Tax Information

Under the Federal income tax law, you are subject to certain penalties as well as withholding of tax at a 20 percent rate if you have not provided us with your correct social security number or other taxpayer identification number. Please read this notice carefully.

You (as a payee) are required by law to provide us (as payor) with your correct taxpayer identification number. If you are an individual, your taxpayer identification number is your social security number. If you have not provided us with your correct taxpayer identification nunber, you may be subject to a $50 penalty imposed by the Internal Revenue Service. In addition, interest, dividends, and other payments that we make to you may be subject to backup withholding starting on January 1, 1984.

Backup withholding is different from the 10 percent withholding on interest and dividends that was repealed in 1983. If backup withholding applies, a payor is required to withhold 20 percent of interest, dividends, and other payments made to you. Backup withholding is not an additional tax. Rather, the tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund may be obtained.

Enclosed is a postage-prepaid reply envelope in which you may return the enclosed form to furnish us your correct name and taxpayer identification number. Please sign the form and return to us.

Q–8. In order to be considered to have exercised due diligence, is a payor required to request the payee to return the form certifying that the taxpayer identification number provided to the payor is correct?

A–8. The payor may request the payee to sign and return the form irrespective of whether the taxpayer identification number shown for the payee is the payee's correct taxpayer identification number. Alternatively, the payor may request that the payee return the form only in the event that the taxpayer identification number shown for the payee is incorrect, or if no taxpayer identification number is shown. If the payor uses the alternative instruction described in the preceding sentence, the payor may make suitable changes to the last paragraph of the notice prescribed in A–7.

If, however, the payee does not return the form certifying his taxpayer identification number under penalties of

perjury, the payor is required in each subsequent year to request the payee to provide his correct taxpayer identification number under penalties of perjury (until the payee so certifies his taxpayer identification number).

Q–9. What form may the payee use to certify that the taxpayer identification number provided to the payor is correct?

A–9. The Internal Revenue Service is currently preparing Form W–9 on which a payee may certify his taxpayer identification number under penalties of perjury. Form W–9 will be available in mid October upon request to any Internal Revenue Service district director.

Q–10 May a payor use a substitute form instead of Form W–9 for a payee to certify, under penalties of perjury, that the taxpayer identification number provided to the payor is correct?

A–10. Yes. A substitute form must include space for the payee to provide his name, address, and taxpayer identification number. The form also must include space for the payee to certify under penalties of perjury that he is furnishing his correct taxpayer identification number to the payor. The wording of the certification must be substantially similar to the following: "Under penalties of perjury, I certify that the number shown on this form is my correct taxpayer identification number." If a payor uses a substitute form, the payor must provide either the Internal Revenue Service's instructions for Form W–9 or the substance of those instructions on or with the substitute form.

Q–11. In order to satisfy the due diligence requirement for pre-1984 accounts and instruments, is a payor required to send the mailing or mailings described in A–5 and A–6 to a payee who has previously furnished a taxpayer identification number to the payor, but who has not certified under penalties of perjury that the number provided to the payor is his correct taxpayer identification number?

A–11. Yes. A payor must send the mailing or mailings as required in A–5 and A–6 to any payee of a reportable interest or dividend payment who has not previously certified under penalties of perjury that the taxpayer identification number provided to the payor is the payee's correct number.

Q–12. May a payor satisfy the due diligence requirement by sending the separate mailings described in A–5 and A–6 with other mail the payor sends to the payee?

A–12. No. The separate mailing soliciting a certificate providing the payee's correct taxpayer identification number under penalties of perjury must not include any other communication to the payee. No material may be included in the separate mailing to the payee other than the notice, certification form and instructions, and postage-prepaid reply envelope.

Q–13. What action must a payor take with respect to accounts opened, or instruments acquired, subsequent to the date on which the payor prepares its list of payees for a mailing required in 1983 but prior to January 1, 1984?

A–13. The payor is required to send the mailing otherwise required to be made by December 31, 1983, to the payees of such accounts and instruments not later than January 31, 1984, unless the payee has previously provided his taxpayer identification number to the payor under penalties of perjury.

Q–14. If a payor makes no reportable interest or dividend payments to a payee with respect to an account or instrument during 1983, so that the payor is not required to make a 1983 information return with respect to the payee, is the payor nevertheless required to send the mailing or mailings to the payee as provided in A–5 and A–6?

A–14. The payor must *either:* (1) Send the mailing or mailings in the manner and within the time periods provided in A–5 and A–6 or (2) send the separate mailing described in A–5 to the payee not later than October 1 of the year in which a payment to the payee with respect to the account or instrument first becomes reportable, or, if later, within 30 days after such reportable payment occurs. Thus, if payments to the payee aggregate less than $10 in 1983, so that no 1983 information return is required, the payor need not make the mailing or mailings described in A–5 and A–6 within the time period provided in A–6; the payor must, however, make the separate mailing described in A–5 to the payee in the first year that payments to the payee aggregate $10 or more.

Q–15. If the payor has obtained a certificate, signed under penalties of perjury, setting forth the payee's taxpayer identification number within the applicable time period in A–6, must the payor nevertheless make the mailing or mailings described in A–5 and A–6 to the payee in order to be considered to have exercised due diligence in obtaining the payee's correct taxpayer identification number?

A–15. No. The mailing requirement applies only to a payee from whom the payor has not previously received a taxpayer identification number certified under penalties of perjury.

Q–16. May a payor obtain the form containing the payee's taxpayer identification number, signed under penalties of perjury, through a solicitation for such certification, in addition to the mailing or mailings required by A–5 and A–6, contained in a regular mailing to the payor's customers?

A–16. Yes. Such a certification may be obtained by a solicitation contained in a regular business mailing, by a request in person to a payee, or otherwise.

Special rules relating to the due diligence requirement for pre-1984 accounts and instruments

Q–17. Is a payor considered to have exercised due diligence in soliciting the correct taxpayer identification number with respect to pre-1984 accounts and instruments if the payor sends the required mailings to the last known address of the payee?

A–17. Yes.

Q–18. Is a payor required to send the required mailing or mailings to a payee's last known address in a case where other mailings to that address have been returned to the payor because the address was incorrect and no new address has been provided to the payor?

A–18. No. In such a situation, the payor is required to handle the required mailings in the same manner that he handles other correspondence to the payee.

Q–19. Is a payor required to send the mailing or mailings to the payee of an account or instrument with respect to which there is currently a "do not mail" or a "stop mail hold" instruction pursuant to which the payor does not send any mail to the payee?

A–19. No. A payor must, however, handle all required mailings in the same manner that the payor handles other correspondence with the payee.

Q–20. Is a payor required to send mailings to all payees listed on a joint account or jointly held instrument?

A–20. No. A payor is required to send mailings only to the first person listed on an account or instrument because the taxpayer indentification number of that person is the one required to be provided on an information return.

Q–21. If a payor has a Form W–6 or W–7 exemption certificate, relating to the now-repealed 10 percent withholding on interest and dividends, signed by a payee, must the payor send the mailings to the payee?

A–21. Generally, yes. The Internal Revenue Service Forms W–6 and W–7 did not contain a certification, under penalties of perjury, that the taxpayer identification number furnished by the payee was correct. If, however, the payor utilized a substitute Form W–6 or

W–7 on which a payee certified under penalties of perjury in the manner provided on Form W–9 or in A–10 that the taxpayer identification number furnished to the payor was the payee's correct number, the payor is not required to send mailings to the payee.

Q–22. Is a payor of reportable interest or dividends required to send mailings to a corporation or other exempt recipient?

A–22. No. A payment of interest to a corporation or other exempt recipient described in § 1.6049–4(c)(1)(ii) of the Income Tax Regulations generally is not subject to information reporting. Thus, mailings to such recipients are not required. Although a payment of dividends or patronage dividends to a corporation and certain other exempt recipients generally is subject to information reporting, payors are not required to send mailings to persons described in § 31.3452(c)–1 (b) through (p) of the Income Tax Regulations in order to satisfy the due diligence requirement. A payee shall be considered an exempt recipient for the purpose of this rule if (1) the payee could be treated as an exempt recipient without the requirement of filing an exemption certificate under § 31.3452(c)–1 (b) through (p) of the Income Tax Regulations or (2) the payee has provided the payor with a certificate, signed under penalties of perjury, stating that the payee is an exempt recipient described in one or more paragraphs of § 31.3452(c)–1 (b) through (p) of the Income Tax Regulations. Form W–9 may be used for the purpose of making this certification. Alternatively, the payor may provide the payee with a substitute form for such certification, provided that the form conforms generally to Form W–9 and the instructions related to exempt recipients.

Q–23. Is a payor required to send mailings to a payee with respect to an account established under the Uniform Gift to Minors Act?

A–23. Yes. The law requires that the social security number of the minor be provided to the payor with respect to accounts established under the Uniform Gift to Minors Act. If the minor does not have a social security number, the minor may obtain one by filing a Form SS–5 with a Social Security Administration Office. The form certifying that the minor's social security number provided is correct may be signed by the custodian of the Uniform Gift to Minors Act account.

Q–24. Is a payor required to send mailings to a payee where the account is held as a club account, bowling league account, recreation account, or other informal account?

A–24. Yes. The law requires that the taxpayer identification number of the organization be provided to the payor. If the club, league, or other informal association does not have an employer identification number, one may be obtained by filing a Form SS–4 with an Internal Revenue Service Center.

Q–25. Must the payee sign and return to the payor the form certifying the payee's correct taxpayer identification number under penalties of perjury in order for the payor to satisy the due diligence requirement?

A–25. No. The determination of whether the payor exercised due diligence in soliciting the payee's correct taxpayer identification number does not depend upon whether the payee signs and returns the form certifying his correct taxpayer identification number. If, however, the payee does not provide his taxpayer identification number to the payor under penalties of perjury, the payor is required to continue to solicit a certified taxpayer identification number from the payee in each year subsequent to 1983 until the payee has provided a certified taxpayer identification number. Such subsequent annual solicitations need not be made, however, in a separate mailing.

Requirement of backup withholding

Q–26. If a payee does not provide a taxpayer identification number to the payor what action is a payor required to take?

A–26. Starting January 1, 1984, the payor is required to commence backup withholding with respect to reportable payments to payees who have not provided a taxpayer identification number to the payor. If an individual payee does not have a social security number, he may obtain one by filing Form SS–5 with a Social Security Administration Office. Other payees may obtain an employer identification number by filing Form SS–4 with an Internal Revenue Service Center.

Q–27. Is a payor of reportable interest or dividends required to impose backup withholding with respect to payments made after December 31, 1983, to a payee of an account that existed, or an instrument that was held by the payee, on December 31, 1983, if the payee has not provided the payor with a written certification under penalties of perjury that the taxpayer identification number furnished is correct?

A–27. No. A payor of reportable interest or dividends that are paid with respect to an account or instrument existing on December 31, 1983, is not required to impose backup withholding starting on January 1, 1984, simply because the payee has failed to certify his taxpayer identification number under penalties of perjury.

Q–28. Is a payor required to impose backup withholding with respect to a reportable interest or dividend payment made on or after January 1, 1984, if the taxpayer identification number furnished by the payee does not contain the proper number of digits?

A–28. Yes. A payor shall treat the payee as having failed to furnish a taxpayer identification number if the number provided does not contain the proper number of digits. The proper number of digits is nine for both the social security number and the employer identification number.

Q–29. Is a payor of reportable interest or dividend payments required to impose backup withholding on a payment made to an exempt recipient?

A–29. No. A payor is not required to withhold on a payment made to a person described in § 31.3452(c)–1 (b) through (p) of the Income Tax Regulations. A payee shall be considered an exempt recipient for purposes of this rule if (1) he may be treated as an exempt recipient without the requirement of filing an exemption certificate under the cited regulation or (2) the payee has provided the payor with a certificate, signed under penalties of perjury, stating that a payee is an exempt recipient described in one or more paragraphs of the cited regulation. Form W–9 may be used for the purpose of making this certification. Alternatively, the payor may provide the payee with a substitute form for such certification, provided that the substitute form conforms generally to Form W–9 and the instructions related to exempt recipients. A payor may in any case require an exempt recipient not otherwise required to file a certificate as to his status as an exempt recipient to file such a certificate, and may treat an exempt recipient who fails to file such a certificate as a person who is not exempt. A payor may require a separate certificate for each account or instrument maintained by an exempt recipient. A payor may require that any certification that a payee is an exempt recipient be made only on the substitute form provided by the payor; in that case, the payor must comply with the pertinent portions of § 31.3452(f)–1(b)(2) of the Income Tax Regulations relating to the procedures that a payor must follow upon receipt of an unacceptable form.

Q–30. Is a payor required to impose backup withholding on a pension or annuity distribution made on or after January 1, 1984, if the payee has not

provided his taxpayer identification number to the payor?

A–30. If pension withholding under section 3405 applies to a pension or annuity distribution and the payee does not make an election not to have pension withholding apply under that section, backup withholding does not apply. If, however, the payee makes such election under section 3405 or pension withholding does not otherwise apply, and the payee does not provide his taxpayer identification number to the payor (or the taxpayer identification number provided is obviously incorrect), the payor is required to withhold 20 percent of any payment to the payee to which section 6041 applies, unless the conditions of the following paragraph are satisfied.

If the annual distributions to a payee total $5,400 or less (in which case withholding under section 3405 generally is not required), and if the payor has no social security number for the payee (or the social security number provided is obviously incorrect), the payor shall not impose backup withholding until the first payment made after June 30, 1984. By that date, the payee will have been able to obtain a social security number and provide it to the payor, in which case no amounts will be withheld.

Q–31. In determining whether a payee has failed to provide a taxpayer identification number with respect to an account that was in existence or an instrument held on December 31, 1983, so that backup withholding is imposed starting January 1, 1984, within what period of time just a taxpayer identification number provided by a payee be treated as having been received?

A–31. A payor must process a taxpayer identification number within 30 days after the payor receives the taxpayer identification number from the payee. Thus, for example, if a payor has no taxpayer identification number for a payee, and the payee provides his taxpayer identification number to the payor on December 15, 1983, the payor must process the number not later than January 14, 1984. As a result, the payor would be authorized to commence backup withholding with respect to payments made to the payee commencing January 1, 1984, but backup withholding must cease by January 14, 1984. The payor also is authorized to treat the taxpayer identification number as having been received at any time after it is provided, so that backup withholding need not be commenced in the circumstance outlined above.

Certification requirements for accounts opened and instruments acquired after 1983

Q–32. What actions must a payor take with respect to accounts that are opened or instruments acquired on or after January 1, 1984, in order to avoid imposing backup withholding on reportable interest or dividend payments?

A–32. In order to avoid imposing backup withholding with respect to accounts that are opened or instruments acquired on or after January 1, 1984, a payor of reportable interest or dividend payments must obtain a certification from the payee, signed under penalties of perjury, (1) that the taxpayer identification number provided to the payor is the payee's correct number and (2) that the payee is not subject to backup withholding due to notified payee underreporting. The form for these certifications is prescribed in A–35 and A–36.

Q–33. What payees can make the certification that they are not subject to backup withholding due to notified payee underreporting?

A–33. Any payee who has not been notified that he is subject to backup withholding as a result of notified payee underreporting can make the certification under the law. In addition, a payee who was subject to backup withholding due to notified payee underreporting may certify that he is not subject to backup withholding due to notified payee underreporting if the Service has provided the payee with written certification that backup withholding due to notified payee underreporting has terminated.

Q–34. Under what circumstances will an account be considered to have been in existence, or an instrument be considered to have been held, before January 1, 1984 (a "pre-1984 account")?

A–34. An account that is in existence before January 1, 1984, will be considered a pre-1984 account, irrespective of whether additional deposits are made to the account on or after January 1, 1984. In addition, if shares of a corporation are held before January 1, 1984 (or considered held before such date by operation of this rule), and additional shares are received by the holder, irrespective of whether such shares are received by reason of a stock dividend, as a result of an infusion of new cash, or otherwise, the new shares received will be considered a pre-1984 account, in the discretion of the payor. Where an account is opened, or an instrument is acquired automatically on the maturity or termination of an account that was in existence or instrument held before January 1, 1984 (or considered to have been in existence or held before such date by operation of this rule), without the participation of the payee, the new account or instrument will be considered a pre-1984 account, in the discretion of the payor. For purposes of the preceding sentence, a payee shall not be considered to have participated in the acquisition of the new account or instrument solely by reason of the failure to exercise a right to withdraw funds on maturity or termination of the old account or instrument. Where a discount instrument with a maturity not exceeding one year (a "short-term instrument") is acquired upon the maturity of a short-term instrument, the participation of the payee in the acquisition of the newly-acquired instrument shall not be taken into account, and the new instrument shall be considered to have been acquired automatically, with respect to instruments acquired prior to January 1, 1985. In the case of insurance policies in effect on December 31, 1983, the election of a dividend accumulation option pursuant to which interest is paid, or the creation of an "account" in which proceeds of a policy are held for the policy beneficiary, may, in the payor's discretion, be treated as a pre-1984 account.

Q–35. What form may a payee of reportable interest or dividends use to certify under penalties of perjury, that the taxpayer identification number provided to the payor is correct and that he is not subject to backup withhholding due to notified payee underreporting?

A–35. A payee may use Internal Revenue Service Form W–9 for both required certifications.

Q–36. May a payor of reportable interest or dividends or a broker provide a substitute form for a payee to certify under penalties of perjury that his taxpayer identification number is correct and that he is not subject to backup withholding due to notified payee underreporting?

A–36. Yes. A payor or broker may use a substitute form provided the language of the certification is substantially similar to the following: "Under penalties of perjury, I certify (1) that the number shown on this form is my correct taxpayer identification number and (2) that I am not subject to backup withholding either because I have not been notified that I am subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service has notified me that I am no longer subject to backup withholding." A payor or

broker may use separate substitute forms to have the payee certify under penalties of perjury that (i) his taxpayer identification number is correct, provided the language is substantially similar to the certification in A–10 and (ii) he is not subject to backup withholding due to notified payee underreporting provided the language is substantially similar to clause (2) of the preceding sentence. A payor or broker also may incorporate both required certifications into other business forms, customarily used, such as account signature cards, provided the required certifications are clearly set forth.

If a payor or broker uses a single substitute form for both certifications, which does not follow the Form W–9 format, the form must contain an instruction to the payee that he must strike out the language certifying that the payee is not subject to backup withholding due to notified payee underreporting if he has been notified that he is subject to backup withholding due to notified payee underreporting, and the payee has not received a notice from the Internal Revenue Service advising him that backup withholding has terminated. If the payor or broker requires that the payee make the certification on a substitute form provided by the payor, the payor or broker may refuse to accept certifications (including certifications provided on Form W–9) that are not made on the form or forms provided by the payor or broker. If the payor or broker refuses to accept the form provided by the payee, the payor or broker then must comply with the pertinent portions of § 31.3452(f)–1(b)(2) of the Income Tax Regulations related to the procedures that a payor must follow upon receipt of an unacceptable form.

Q–37. With respect to reportable interest or dividends that are paid on an account opened or an instrument acquired on or after January 1, 1984, if a payee fails to certify, under penalties of perjury, (1) that the number furnished is his correct taxpayer identification number, and (2) that he is not subject to backup withholding due to notified payee underreporting, what action is a payor required to take?

A–37. A payor is required to withhold 20 percent of any reportable interest or dividend payment on such an account or instrument if either of the certifications specified is not provided.

Q–38. Is a payor ever required to withhold more than 20 percent of a payment?

Q–38. No. Irrespective of how many conditions exist which cause backup withholding to apply, a payor is required to withhold only 20 percent of a payment until all of the conditions no longer apply.

Q–39. Is a payor required to send a notice to the payee when the payor commences backup withholding?

Q–39. In general, no. However, a payor of a readily tradable instrument that is not acquired directly from the payor must notify the payee that backup withholding has commenced, or will commence. The notice must be sent to the payee not later than 15 days after the payor makes the first payment to the payee that is subject to backup withholding. The notice must explain the steps the payee must take to stop backup withholding. The text of this notice will be provided in a regulation to be issued in the near future.

Q–40. Do special rules apply to payments made with respect to readily tradable instruments?

A–40. Yes. Special backup withholding rules apply with regard to readily tradable instruments when (1) the payee did not acquire the instrument directly from the issuer of the instrument and (2) a broker does not hold the instrument as nominee for the payee (*i.e.*, in street name). Under the special rules, a payor is required to impose backup withholding only if (1) the payor does not receive the payee's taxpayer identification number, or (2) the payor is notified by a broker that the payee failed to make the required certifications (described in A–32) to the broker and the payee did not make the certifications to the payor. When the payee acquires the instrument directly from the issuer of the instrument or when a broker holds the instrument as nominee for the payee, the rules applicable to payors apply.

Q–41. What rules apply to brokers?

A–41. When a broker is a payor (*i.e.*, the broker holds the instrument in street name), the regular rules for payors apply. If a broker is not the payor with respect to an instrument, different rules apply to the broker depending on whether the payee's account with the broker is treated as a "post-1983 account."

A "post-1983 account" is any account other than an account established prior to January 1, 1984, through which, during 1983, the broker either bought or sold an instrument for the payee or acted as nominee for the payee. (Both the determinations of (1) whether an account or instrument is treated as a post-1983 account of the payor for purposes of the payor's due diligence requirements (see A–34) and (2) when backup withholding applies to an instrument are made without regard to whether the instrument is acquired through a post-1983 account of a broker.)

When a readily tradable intrument is acquired through a "post-1983 account" and the broker is not the payor of the instrument, the broker must (1) obtain the certifications (described in A–32) from the payee but only once with respect to each account, (2) furnish the payee's taxpayer identification number to the payor, and (3) notify the payor to impose backup withholding if the payee failed to make either of the required certifications to the broker. The broker is required to give the information required by clauses (2) and (3) of the prior sentence to the payor in connection with the transfer instructions for the acquisition. The notice under clause (3) shall state that: "The [named payee] is subject to backup withholding under sections 3406(a)(1)(A), 3406(a)(1)(B), 3406(a)(1)(C), or 3406(a)(1)(D) of the Internal Revenue Code [circle whichever section applies]." A magnetic media, machine readable, or other similar notice substantially to the same effect also may be employed. After the transfer instructions are transmitted, the broker is not required to seek a missing taxpayer identification number or missing certification or to give any further notices with regard to the acquisition of the instrument.

When a readily tradable instrument is acquired through an account that is not a "post-1983 account" and the broker is not the payor of the instrument, the broker's sole responsibility is to furnish the payee's taxpayer identification number to the payor (unless the broker has been notified that the payee is subject to backup withholding under section 3406 (a)(1)(B) or (a)(1)(C) of the Internal Revenue Code).

Window transactions

Q–42. Is a payor required to exercise due diligence in soliciting the taxpayer identification number of a payee with respect to the following payments ("window transactions"): Redemptions of United States savings bonds, and payments upon interest coupons, Treasury bills, commercial paper, and banker's acceptances?

A–42. No. The due diligence requirements do not apply to such payments. Thus, the certification requirements set forth in A–32 do not apply to such transactions. A payor is required to withhold 20 percent with respect to such payments only if the payee does not provide his taxpayer identification number to the payor. Payors remain obligated, however, to make an information return with respect to window transactions.

Q–43. Will a payor be allowed to furnish an information return to the payee with respect to a window transaction at the time the obligation or instrument is presented?

A–43. Yes. A payor may furnish an information return to the payee at the time of the transaction or any time prior to January 31 of the year following the calendar year in which the transaction occurs. In general, however, the payor must provide information returns with respect to window transactions to the Internal Revenue Service on magnetic tape, in accordance with section 6011(e)(2) of the Internal Revenue Code, effective for transactions after December 31, 1983.

Separate Form 1099

Q–44. Is a payor of interest, dividends, or patronage dividends paid in 1983 required to send a separate official Form 1099 to a payee?

A–44. No. A payor of interest, dividends, or patronage dividends paid in 1983 is not required to send a separate official Form 1099 to a payee. A payor may satisfy his obligation to furnish the required statement to the recipient by sending the statement with other business correspondence to the payee, such as a monthly statement.

Q–45. Is a payor of interest, dividends, or patronage dividends paid after January 1, 1984, required to send a separate official Form 1099 to a payee?

A–45. Yes. For payments made in 1984 and subsequent years, a payor is required to provide an official Form 1099 to a payee either in a separate mailing or in person. Payors also may use a substitute Form 1099 which contains provisions substantially similar to those of the prescribed form if the payor complies with all revenue procedures relating to substitute Form 1099 in effect at the time.

Q–46. Is a payee required to attach Form 1099 to his tax return?

A–46. No.

Miscellaneous

Q–47. In what manner is a payor required to remit to the Internal Revenue Service amounts withheld from any reportable payment?

A–47. A payor must deposit amounts withheld under the backup withholding provisions with a Federal Reserve Bank or an authorized financial institution in accordance with the deposit rules of § 31.6302(c)–1(a)(1)(i) of the Income Tax Regulations that apply to an employer with respect to employment taxes. The payor of a reportable payment may elect, however, in accordance with the instructions provided with Form 941, to deposit such amounts separately from social security taxes and income tax withheld from wages. Thus, a payor may treat amounts withheld under section 3406 separately from amounts withheld from wages for purposes of determining when to remit the withheld amounts from any reportable payment. If, however, the payor elects to aggregate the amount withheld from wages with the amounts withheld under section 3406, the payor may do so. Regardless of the manner in which the payor elects to treat the withheld amounts for purposes of determining the time within which such amounts are required to be deposited, a payor must report the amounts withheld under section 3406 on the same Form 941 that the payor uses to report the employment taxes deposited.

Q–48. May a payor refuse to open an account for, or issue an instrument to a person on or after January 1, 1984, if the person fails to furnish his taxpayer identification number to the payor under penalties of perjury?

A–48. Yes. If the payor refuses to open an account or issue an instrument because the person fails to provide his taxpayer identification number under penalties of perjury, the payor will not be in violation of the Internal Revenue Code. If, however, the payor allows a person who has not provided his taxpayer identification number under penalties of perjury to open an account or acquire an instrument, the payor is required to impose backup withholding with respect to any interest or dividend payments thereafter made with respect to such account or instrument (unless the payee thereafter provides his taxpayer identification number certified under penalties of perjury). The payor is not permitted, however, to refuse to open an account or to issue an instrument if the payee fails to certify under penalties of perjury, that the payee is not subject to backup withholding due to notified payee underreporting.

Q–49. May a payor treat a certificate respecting a taxpayer identification number as valid if it is signed by a person other than the payee?

A–49. In certain instances, yes. A certificate may be signed by any person who, under the pertinent portions of sections 6061, 6062, 6063, and 6065 of the Internal Revenue Code and the regulations thereunder, is authorized to sign a declaration under penalties of perjury on behalf of the payee.

Q–50. What procedures must a payor follow in order to demonstrate that it has exercised due diligence in furnishing the correct taxpayer identification number of a payee, as required in A–5?

A–50. A payor is not required to retain a copy of the communication sent to each individual payee or to prove that the communication was sent to a particular payee. Instead, payors must establish the existence of procedures that are reasonably calculated to insure that each person required to receive a mailing as prescribed in A–5, in fact received such mailing, and that the payor exercised reasonable care in processing responses to such mailings.

Special rules for accounts, instruments and transactions of foreign persons

Q–51. Is a payor required to send the mailing or mailings described in A–5 and A–6 to foreign persons?

A–51. Generally no. A payor is required to send the mailing or mailings described in A–5 and A–6 to any payee to whom the payor makes a payment that is subject to information reporting. Generally, a payment of interest to a foreign person is not subject to information reporting. See §1.6049–5 (b)(2) and (3) of the Income tax Regulations for the procedures to determine whether a payee of interest is a foreign person. See § 1.6042–3(b) (1), 2, and (3) and § 1.6044–3(c) of the Income Tax Regulations concerning exceptions from the information reporting requirements for payments of dividends and patronage dividends by and to certain foreign persons.

Q–52. Is a payor required to send the mailing or mailings described in A–5 and A–6 to foreign persons with respect to pre-1984 accounts and instruments if payments on those accounts and instruments would not have been reportable payments but for the fact that the foreign person failed to provide the penalty of perjury statement described in § 1.6049–5(b)(2)(iv) of the Income Tax Regulations?

A–52. A payor need not send the mailing or mailings described in A–5 and A–6 to a payee who has not previously provided the penalty of perjury statement described in § 1.6049–5(b)(2)(iv) of the Income Tax Regulations if (1) the payor sends a separate mailing to the payee on or before December 31, 1983, requesting the required penalty of perjury statement and (2) the payor has evidence in its records that the payee is a foreign person (provided that the payor has no actual knowledge that such evidence is false). If the payor has sent a nonseparate mailing on or before December 31, 1983, requesting the required penalty of perjury statement, the payor may send the separate mailing referred to in clause (1) on or before March 31, 1984. The separate mailing,

whether sent in 1983 or 1984, must be by first-class mail, or by airmail if sent to a foreign address, and must contain a notice describing the penalty of perjury statement set forth in § 1.6049–5(b)(2)(iv) and advising the payee that backup withholding may commence if the statement is not provided. The payor also must provide a reply envelope and a form on which the payee may make the statement described in § 1.6049–5(b)(2)(iv) under penalties of perjury. Neither the separate nor nonseparate mailing is required if the payor has received the required penalty of perjury statement from the payee.

The rules of A–18 and A–19 relating to a "do not mail" or "stop mail hold" instruction and to payees for whom the payor has no address, shall apply. The other evidence referred to in clause (2) above on which the payor may rely for treating a payee as a foreign person includes a written statement from the payee that he is neither a resident nor a citizen of the United States or an affidavit from an employee of the payor stating that he knows that, or the payee has represented orally that, he is a foreign person. The mere fact that the payee has provided an address outside the United States is insufficient evidence to establish that the payee is a foreign person for this purpose.

Q–53. Is a payor required to commence backup withholding on January 1, 1984, on payments with respect to accounts and instruments described in A–52 if the foreign person failed to provide the penalty of perjury statement described in § 1.6049–5(b)(2)(iv) of the Income Tax Regulations?

A–53. The payor need not commence backup withholding with respect to such payments made before July 1, 1984, provided that the payor (1) made the separate mailing described in A–52 before December 31, 1983, or has made the nonseparate mailing described in A–52 before December 31, 1983, and sends a separate mailing to those payees who have not provided the required statement by March 31, 1984, and (2) has in its records the evidence described in A–52 that the payee is a foreign person.

Q–54. Do the backup withholding provisions apply to payments of interest within the United States by a payor that is an international organization or by a person acting in its capacity as a paying agent for such organization?

A–54. No, provided the international organization is in organization of which the United States is a member and which enjoys immunity or exemption from any liability or obligation to pay, withhold, or collect tax pursuant to an international agreement having full force and effect in the United States.

Q–55. Is a broker required to impose backup withholding with respect to transactions effected for pre-1984 accounts if the customer is an exempt foreign person who fails to provide the broker with the penalty of perjury statement described in § 1.6045–1(g)(1) of the Income Tax Regulations?

A–55. With respect to such transactions effected before July 1, 1984, a broker is not required to impose backup withholding if (1) the broker sends a separate mailing to the customer on or before December 31, 1983, requesting the penalty of perjury statement described in § 1.6045–1(g)(1) of the Income Tax Regulations and (2) the broker has evidence in his records that the customer is a foreign person (provided that the broker has no actual knowledge that such evidence is false). If the payor sent a nonseparate mailing on or before December 31, 1983, requesting the required penalty of perjury statement, the payor may send the separate mailing on or before March 31, 1984. The separate mailing, whether made in 1983 or 1984, must be by first-class mail, or by airmail if sent to a foreign address, and must contain a notice describing the required penalty of perjury statement and advising the customer that backup withholding may commence if the statement is not provided. The broker must also include in the mailing a reply envelope and provide a form on which the customer may make the required penalty of perjury statement. Neither the separate nor nonseparate mailing is required if the payor has received the penalty of perjury statement from the customer.

The rules of A–18 and A–19 relating to "do not mail" or a "stop mail hold" instructions, and to payees for whom the payor has no address shall apply. The other evidence referred in clause (1) above on which the broker may rely for treating a customer as as foreign person may include a written statement from the customer that he is neither a resident nor a citizen of the United States or an affidavit from an employee of the broker stating that he knows that, or the customer has orally represented that, he is a foreign person. The mere fact that the customer has provided an address outside the United States is insufficient evidence to establish that the customer is a foreign person for this purpose.

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.

This Treasury decision is issued under the authority contained in section 3406 (a), (b), (c), (e), (g), (h), and (i), section 6042(a), section 6044(a), section 6045, section 6049 (a), (b), and (d), section 6103(q), section 6109, section 6302(c), section 6676, and section 7805 of the Internal Revenue Code of 1954 (97 Stat. 371, 372, 373, 376, 377, 378, 379; 26 U.S.C. 3406 (a), (b), (c), (e), (g), (h), and (i), 96 Stat. 587; 26 U.S.C. 6042(a), 96 Stat. 587; 26 U.S.C. 6044(a), 96 Stat. 600, 26 U.S.C. 6045, 96 Stat. 592, in sections 104 and 105 of the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369, 371, and 380).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 30, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-27157 Filed 9-30-83; 3:52 pm]

BILLING CODE 4830-01-M

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H.R. 3914 / Pub. L. 98-100 To require the Secretary of Agriculture to make an earlier announcement of the 1984 crop feed grain program and of the 1985 crop wheat and feed grain programs. (Sept. 29, 1983; 97 Stat. 718) Price: $1.50.

S. 118 / Pub. L. 98-101 To provide for the establishment of a Commission on the Bicentennial of the Constitution. (Sept. 29, 1983; 97 Stat. 719) Price: $1.75.