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Federal Register

Tuesday
October 8, 1985

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Proclamation 5374 of October 3, 1985

Leif Erikson Day, 1985

By the President of the United States of America

A Proclamation

Sent by King Olav in the year 1000 to bring Christianity to the Nordic settlers in Greenland, Leif Erikson set out on a daring and danger-filled voyage that began a centuries-long relationship between the Nordic peoples and the lands of North America. "Leif the Lucky," as his contemporaries knew him, sailed well beyond the tip of Greenland to the shores of the North American mainland. His enthusiastic account of his voyage describes a fertile land abounding in fruit, grain, and timber.

Hundreds of years later, millions of Nordics followed in the wake of Leif Erikson, crossing the Atlantic to make their homes in this land of opportunity. Pressing westward, they settled across the continent, making important contributions to American agriculture and industry. Prizing personal freedom, hard work, and family values, these hardy God-fearing pioneers played a key role in shaping the American character. Today, cultural exchanges, commercial ties, and cordial diplomatic relations with the countries of Denmark, Finland, Iceland, Norway, and Sweden continue to enrich the lives of all Americans.

To commemorate the courage of Leif Erikson and in recognition of our long and fruitful relationship with the peoples of northern Europe, the Congress of the United States, by a joint resolution approved on September 2, 1964 (78 Stat. 849, 36 U.S.C. 169c), has authorized and requested the President to proclaim October 9 of each year as Leif Erikson Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 9, 1985, as Leif Erikson Day, 1985, and I direct the appropriate government officials to display the flag of the United States on all government buildings that day. I also invite the people of the United States to honor Leif Erikson and our Nordic-American heritage by holding appropriate exercises and ceremonies in suitable places throughout the land.

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

Ronald Reagan

[FR Doc. 85-24108
Filed 10-4-85; 11:31 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5375 of October 4, 1985

Child Health Day, 1985

By the President of the United States of America

A Proclamation

This year, we mark the golden anniversary of the landmark maternal and child health legislation, Title V of the Social Security Act. Under that authority, the Federal Government has sponsored a wide variety of training, demonstration, research, and related special activities that have made a great contribution to our effectiveness in providing health care to American mothers and their children.

Even more important, I believe, is the fact that for 50 years we have provided assistance to the States through formula grants and, more recently, through the Maternal and Child Health Services Block Grant. Through this approach, States have matched Federal funds and have assumed full responsibility for program administration. We can all take pride in this relationship that has supported a wide range of vital preventive and therapeutic services for mothers and infants and children and adolescents, including highly sophisticated help to children with special needs, such as those with handicaps and chronic illness. We can take pride in the services provided and, especially, in the way they are provided, for the nature, scope, location, and timing of these services are determined as they should be—at the State and community levels, and by the medical professionals at the scene. These are the people who know firsthand what the greatest needs are and how best to respond to them.

On this Child Health Day, 1985, as we celebrate 50 years of cooperative endeavor in support of maternal and child health, we should rededicate ourselves to the expansion of State and local responsibility in this extremely important field. We must do everything necessary to protect the health of our mothers and children. We must remember that the best way to do this is to entrust the responsibilities and the needed resources to the States and communities in which they live.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, pursuant to a joint resolution approved May 18, 1928, as amended (36 U.S.C. 143), do hereby proclaim Monday, October 7, 1985, as Child Health Day.

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

Ronald Reagan

[FR Doc. 85-24249
Filed 10-7-85; 10:59 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5376 of October 4, 1985

Columbus Day, 1985

By the President of the United States of America

A Proclamation

We are privileged each year to pay honor to the great explorer whose epic voyages of discovery led to the development of the Western Hemisphere. Christopher Columbus won an imperishable place in history and in the hearts of all Americans by challenging the unknown and defying the doubters. In doing so he set in motion a chain of events which transformed the world and led to the birth of the great country in which we live.

Columbus' achievement lies not only in his daring navigational exploits but also in the practical outgrowth of his efforts. More than a great seaman, he was a man of vision who could see the opportunities that lay beyond the horizon. Indeed, the results of his quest were far grander than he could have envisioned. Those who followed in the path he had opened built a new world whose economic, political, and social development have been marvels of human energy and ingenuity. People from across the globe have come to America to find freedom, justice, and economic opportunity.

Columbus exemplified a spirit which still inspires all Americans—a spirit of reaching out, expanding the frontiers of knowledge, a spirit of undaunted hope. In the words of Joaquin Miller, "He gained a world; he gave that world its grandest lesson: 'On! Sail on!' " Like Columbus, we Americans are ready to take risks in pursuit of our goals. We understand that boundless opportunities await those who dare to strive.

Our tribute to Columbus has special meaning to Americans of Italian descent. This son of Genoa was the first of many great Italian travelers to the New World. Millions of his countrymen would later settle in the new land, adding their precious contribution to the developments that stemmed from Columbus' voyages. Columbus was the first link in a chain which today binds the United States to Italy in a special relationship.

This remembrance is also particularly important for those of Spanish descent. Columbus' achievement depended on the vision and energy of a newly united Spain. This was only the first of Spain's many cultural and economic contributions to the New World. We share with our Spanish-speaking neighbors this heritage and our debt of gratitude to Spain.

In the coming years this commemoration of the voyage of 1492 will take on heightened significance, because we are approaching the 500th anniversary of that great event. The Christopher Columbus Quincentenary Jubilee Commission, a distinguished group of Americans assisted by representatives from Spain and Italy, will plan, encourage, and carry forward the commemoration of Columbus' great voyages of discovery. The Committee held its initial meeting on September 12, and will report within two years its recommendations for observance of the celebration.

In tribute to Columbus' achievement, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as Columbus Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Monday, October 14, as Columbus Day. I invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in honor of this great explorer. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

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

Ronald Reagan

[FR Doc. 85-24250
Filed 10-7-85; 11:00 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Kiwifruit

Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

In FR Doc 85-23545 beginning on page 41085 in the issue of Wednesday, October 2, 1985, make the following correction:

On page 40186 in the second column, in § 51.2341, in the eleventh line, "open" should read "opened".

BILLING CODE 1505-01-M

7 CFR Part 917

Fresh Pears, Plums, and Peaches Grown in California; Amendment of Pear Commodity Committee Districts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule reallocates the membership on the Pear Commodity Committee and re-groups certain districts, for purposes of representation, within the production area. The changes reflect the relative quantity of pears shipped from the respective representation areas. This action was unanimously recommended by the Pear Commodity Committee established under this order.

EFFECTIVE DATE: This rule (§ 917.121) is effective October 8, 1985.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** (50 FR 35828) on September 4, 1985, concerning the redefinition of representation areas and the reallocation of membership on the Pear Commodity Committee. Section 917.35(g) of the order authorizes the Pear Commodity Committee, with the approval of the Secretary, to redefine the districts into which the production area is divided or to change the representation in any area. Any such changes are to be based, so far as practicable, upon the proportionate quantity of fruit shipped from the respective representation area during the three preceding fiscal periods. The proposed rule provided an opportunity to file comments through September 19, 1985. No comments were received. This final rule contains the same requirements as specified in the proposed rule.

This final rule is issued under Marketing Order No. 917, regulating the handling of fresh pears, plums, and peaches grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Pear Commodity Committee, and upon other available information.

The production area is currently divided into six areas for purposes of grower representation on the 13-member Pear Commodity Committee. This final rule reduces the number of representation areas to five by combining the Placer-Colfax District and El Dorado District with the representation area covering the balance of the State. Membership from the combined area is reduced from two members to one member. This rule also increases from five to six the number of members representing the Lake District.

This final rule reallocates committee representation among the districts in accordance with the proportionate quantity of pears shipped from such districts. During the three year period (1982-84) pear shipment totaled 11,263 cars. During the period the Lake District accounted for 5,203 cars or 46 percent of the total. The Placer-Colfax and El Dorado districts together with the Tehachapi and Little Rock areas, which are the principal producing areas in the balance of the State, accounted for less than 5 percent of total fresh shipments during the specified period. For this reason it is appropriate to redefine the representation areas and reallocate representation as specified.

It is further found that it is impracticable to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these provisions effective as specified in that: (1) A proposed rule was published in the **Federal Register** (50 FR 35828) and no comments were received during the period provided; (2) the requirements in this final rule are the same as those in the proposed rule; (3) the allocation is prescribed by the order and is based upon shipments of fresh pears in a prior period and thus no additional time is needed to prepare for this final rule.

List of Subjects in 7 CFR Part 917

Marketing agreement and orders, California, Pears, Plums and peaches.

PART 917—[AMENDED]

For the reasons given above, 7 CFR Part 917 is amended as follows:

1. The authority citation for 7 CFR Part 917 continues to read as follows:

Authority: Secs. 1-19, 49 Stat. 31, as amended; 7 U.S.C. 601-674.

2. § 917.121, paragraphs (c), (d), and (e) are revised to read as follows:

§ 917.121 Changes in nomination of Pear Commodity Committee members.

* * * * *

(c) Lake District, six nominees.

(d) Mendocino District and North Bay District, two nominees.

(e) Placer-Colfax District and El Dorado District, and all of the production area not included in paragraphs (a) through (d) of this section, one nominee.

Dated: October 2, 1985.

William J. Doyle,

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

[FR Doc. 85-23970 Filed 10-7-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts with Transportation Lines; Addition of Best Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of transportation lines which have entered into agreements with the Service for the preinspection of their passengers and crew at locations outside the United States by adding the name of Best Airlines, Inc.

EFFECTIVE DATE: September 16, 1985.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into agreement with Best Airlines, Inc. provide for the preinspection of their passengers and crew as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilities processing passengers and crew upon arrival at a U.S. port of entry and is a convenience to the travelling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds transportation lines' names to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Aliens, Common carriers, Government contracts, Inspections, Transportation lines.

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

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.4 [Amended]

In § 238.4, *Preinspection outside the United States*, the listing of transportation lines is amended by adding the names "Best Airlines, Inc." under "At Nassau".

Dated: October 2, 1985.

Marvin J. Gibson,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 85-23966 Filed 10-7-85; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 50

[Docket No. 85-102]

Bovine Tuberculosis Indemnity

AGENCY: Animal and Plant Health Inspection Service.

ACTION: Interim rule.

SUMMARY: This document amends the tuberculosis indemnity regulations in 9 CFR Part 50 to allow, under certain circumstances, for extensions of the previous time limits for the identification and appraisal of animals that are classified as reactors or that are otherwise condemned because of tuberculosis. This action is necessary in order to help prevent the spread of tuberculosis.

DATES: The effective date of this document is October 3, 1985. Written comments must be received on or before December 9, 1985.

ADDRESS: Written comments concerning this interim rule should be submitted to Thomas O. Gessel, Director, Regulatory Coodination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-102. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. G.H. Frye, Cattle Diseases Staff, VS, APHIS, USDA, Room 814, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8711.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is a contagious, infectious, and communicable disease of cattle, bison, and other species, including humans. Tuberculosis in affected animals is characterized by weight loss and general debilitation. Also, the disease can be fatal.

The regulations in 9 CFR Part 50 (referred to below as the regulations) contain provisions for the payment of indemnities to owners of cattle (and under very limited circumstances to owners of swine and bison) destroyed because of bovine tuberculosis. Under these regulations indemnity is paid to an owner of such animals destroyed because of tuberculosis to encourage the owner to cooperate in the timely removal of infected animals from the herd or, in the case of herd depopulation, to remove foci of infection and thereby prevent transmission of tuberculosis to nearby susceptible herds.

Section 50.6 of the regulations provides for the identification of animals to be destroyed because of tuberculosis. Prior to the effective date of this document, § 50.6 provided that, as a condition of receiving indemnity payments, the animals must have been identified within 15 days after being classified as reactors or after being otherwise condemned because of tuberculosis. The regulations also contain provisions for extending the time limit for identification to 30 days. In this regard, § 50.6 of the regulations provides that:

> . . . the appropriate Veterinarian in Charge, for reasons satisfactory to him, may extend the time limit for identification to 30 days when a request for such extension is received by him prior to the expiration date of the original 15-day period allowed.

This document amends the regulations by adding a provision to allow the Deputy Administration to extend the time limit for identification beyond 30 days, upon request in specific cases and for reasons satisfactory to him.

Section 50.9 of the regulations provides for the appraisal of animals to be destroyed because of tuberculosis. Prior to the effective date of this document § 50.9 provided, in part, that:

> Animals to be destroyed because of tuberculosis under § 50.3 shall be appraised within 15 days after being classified as affected, or otherwise condemned because of tuberculosis . . .

This document amends the regulations by providing that the appropriate Veterinarian in Charge, for reasons satisfactory to him, may extend the time limit for appraisal to 30 days when a request for such extension is received by him prior to the expiration date of the original 15-day period. This document also amends the regulations by providing that the Deputy Administrator may extend the time limit for appraisal beyond 30 days, upon request in specific cases and for reasons satisfactory to him.

These amendments are necessary to provide a mechanism for allowing additional time for identification and appraisal of animals to be destroyed because of tuberculosis; and these amendments should be made effective immediately in order to facilitate the elimination of a foci of tuberculosis infection in cattle on the island of Molokai, Hawaii. There are currently over 10,000 cattle in approximately 40 herds on the island of Molokai that have been classified as reactors or that have been otherwise condemned because of tuberculosis. Because of the larger number of animals to be identified and appraised, personnel limitations preclude accomplishing identification and appraisal within the previous time limits set forth in the regulations. It is anticipated that there will be other rare instances when it will be extremely difficult, if not virtually impossible, to identify and appraise, within the previous time limits, animals classified as reactors or otherwise condemned because of tuberculosis.

Emergency Action

Dr. John K. Atwell, Deputy Administrator for Veterinary Services, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for a public comment period. It is necessary to make this interim rule effective immediately in order to help eliminate a foci of tuberculosis infection in cattle on the island of Molokai, Hawaii, and thereby help prevent the spread of tuberculosis.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this interim rule effective upon signature. Comments have been solicited for 60 days after publication of this document and a document discussing comments received and any changes required will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule has been reviewed in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have 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.

It is anticipated that the interim rule will affect less than one percent of the cattle, swine, and bison in the United States.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 50

Animal diseases, Cattle, Hogs, Indemnity payments, Additional terms, Tuberculosis.

PART 50—BOVINE TUBERCULOSIS INDEMNITY

Under the Circumstances referred to above, 9 CFR Part 50 is amended as follows:

1. The authority citation for Part 50 is revised to read as set forth below and the authority citations following all the sections in Part 50 are removed:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

§ 50.6 [Amended]

2. Section 50.6 is amended by changing the period at the end of the introductory paragraph to a comma and adding the following: "and the Deputy Administrator may extend the time limit for identification beyond 30 days, upon request in specific cases and for reasons satisfactory to him."

3. Section 50.9 is amended by revising the first sentence as follows (with this change the first sentence now consists of two sentences):

§ 50.9 Appraisals.

Animals to be destroyed because of tuberculosis under § 50.3 shall be appraised within 15 days after being classified as affected or after otherwise being condemned because of tuberculosis, except that the appropriate Veterinarian in Charge, for reasons satisfactory to him, may extend the time limit for appraisal to 30 days when a request for such extension is received by him prior to the expiration date of the original 15-day period allowed, and the Deputy Administrator may extend the time limit for appraisal beyond 30 days, upon request in specific cases and for reasons satisfactory to him. The appraisal shall be by an independent professional appraiser at Veterinary Services expense, except that the Veterinarian in Charge may waive the requirement for an independent professional appraiser for reasons satisfactory to him * * *.

Done at Washington, D.C., this 3rd day of October 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–23972 Filed 10–7–85; 8:45 am]

BILLING CODE 3410–34–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 31 and 190

Regulation of Certain Leverage Transactions; Correction

AGENCY: Commodity Futures Trading Commission

ACTION: Final rules; correction.

SUMMARY: This document corrects the language contained in an amendment to § 31.12(e) of the interim final leverage rules promulgated under the Commodity Exchange Act (7 U.S.C. 1 *et seq.* (1982)) to make clear that the rule in question applies to leverage transaction merchants and not to futures commission merchants. The rule amendments were published in the **Federal Register** on Friday, September 6, 1985 beginning at 50 FR 36405 and the error which is being corrected appeared at page 36416. The preamble discussion of this rule amendment which appears in the adopting release at page 36411 in footnote 11 is correct.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–8955; David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–9880; or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading

Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–6990.

The following correction is made in FR Doc. 85–21032, which was published in the issue of Friday, September 6, 1985 beginning at page 36405:

§ 31.12 [Corrected].

1. On page 36416, second column, in § 31.12(e), ninth line, the last two words "futures commission" are corrected to read "leverage transaction."

Issued in Washington, D.C. on October 2, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–23961 Filed 10–7–85; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 85F–0057]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to include dimethyl-5-sulfoisophthalic acid, and/or its sodium salt, in the list of acids for polyester resins (including alkyd type) intended for use as components of adhesives in food-packaging applications. This action responds to a petition filed by The Goodyear Tire & Rubber Co.

DATES: Effective October 8, 1985; objections by November 7, 1985.

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

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 8, 1985 (50 FR 9522), FDA announced that a petition (FAP 4B3825) had been filed by The Goodyear Tire & Rubber Co., 130 Johns Ave., Akron, OH 44316–0001, proposing that the food additive regulations be amended to include dimethyl-5-sulfoisophthalic acid, and/or its sodium salt, in the list of acids for polyester resins (including alkyd type) intended for use as components of adhesives in food-packaging applications.

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

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

The agency has previously considered the environmental effects of this rule as announced in the Notice of Filing for FAP 4B3825 (March 8, 1985; 50 FR 9522). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

Any person who will be adversely affected by this regulation may at any time on or before November 7, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 175.105(c)(5) by alphabetically inserting a new item in the list of acids for the substance "Polyester resins (including alkyd type) * * *" to read as follows:

§ 175.105 Adhesives.

* * * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Polyester resins (including alkyd type) * * * Acids:	
* * * * *	
Dimethyl-5-sulfoisophthalic acid (CAS Reg. No. 50975–82–1) and/or its sodium salt (CAS Reg. No. 3965–55–7)	
* * * * *	

Dated: September 30, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–23958 Filed 10–7–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 85F–0017]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sulfonated 9-octadecenoic acid and sodium xylenesulfonate as components in a sanitizing solution for use on food-processing and manufacturing equipment. This action responds to a

petition filed by Diversey Wyandotte Corp.

DATES: Effective October 8, 1985; objections by November 7, 1985.

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

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of February 26, 1985 (50 FR 7836), FDA announced that a petition (FAP 5H3846) had been filed by Diversey Wyandotte Corp., 1532 Biddle Ave., Wyandotte, MI 48192, proposing that § 178.1010 (21 CFR 178.1010) be amended to provide for the safe use of sulfonated 9-octadecenoic acid and sodium xylenesulfonate as components in a sanitizing solution for use on food-processing and manufacturing equipment. Light petroleum hydrocarbon and hydrogen peroxide are also listed in the notice of filing as components of the formulation. After review of the data, FDA is not including these components in the final rule because they are impurities resulting from the manufacturing process, they have no technical effect in the sanitizer, and they are present at extremely low levels.

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

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before November 7, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

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

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.1010 by adding new paragraphs (b)(28) and (c)(23), to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(28) An aqueous solution containing sulfonated 9-octadecenoic acid (CAS Reg. No. 68988-76-1) and sodium xylenesulfonate (CAS Reg. No. 1300-72-7).

(c) * * *

(23) Solutions identified in paragraph (b)(28) of this section shall provide, when ready to use, at least 156 parts per million and not more than 312 parts per million of sulfonated 9-octadecenoic acid, at least 31 parts per million and not more then 62 parts per million of sodium xylenesulfonate.

* * * * *

Dated: September 30, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-23956 Filed 10-7-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of two new animal drug applications (NADA's), one from Burns-Biotec Laboratories, Inc., and the second from Schering Corp., to Summit Hill Laboratories, Inc., and a change of sponsor address for Summit Hill Laboratories, Inc.

EFFECTIVE DATE: October 8, 1985.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Burns-Biotec Laboratories, Inc., through its parent firm, Schering Corp., has informed FDA of a change of sponsor of NADA 8-760 for Andrenome (repository corticotropin injection), and Schering Corp., for its change of sponsor of NADA 99-344 for Osteum (sodium oleate injectable solution), to Summit Hill Laboratories, Inc. Summit Hill Laboratories has confirmed the change of sponsor and also informed the agency of a change of address.

The change of sponsor does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations in 21 CFR Parts 510 and 522 are amended to reflect the new sponsor address and the new sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 50.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "Summit Hill Laboratories, Inc.", and in paragraph (c)(2) in the entry "037990" by revising the sponsor's address to read "P.O. Box 535, Navesink, NJ 07752."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 522.480 [Amended]

4. Section 522.480 *Repository corticotropin injection* is amended in paragraph (b) by removing the number "000845" and inserting in its place "037990."

§ 522.1610 [Amended]

5. Section 522.1610 *Oleate sodium solution* is amended in paragraph (b) by removing the number "000085" and inserting in its place "037990."

Dated: September 27, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–23960 Filed 10–7–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 51 and 602

[T.D. 8056]

Excise Taxes; Definitions Relating to Exemptions From the Windfall Profit Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Excise Tax Regulations under sections 4994, 4995, and 4996 relating to definitions of exempt oil for purposes of the windfall profit tax. Changes to the applicable law were made by the Crude Oil Windfall Profit Tax Act of 1980, the Economic Recovery Tax Act of 1981, and the Technical Corrections Act of 1982. The regulations would provide guidance concerning the requirements for qualifying for these exemptions from the windfall profit tax.

DATE: These regulations are effective generally after February 29, 1980. However, the exemption under § 51.4994–1 (c)(1)(ii)(D) for economic interests held by qualified residential child care agencies is effective for taxable periods beginning after December 31, 1980, and the provisions under § 51.4994–1 (f) relating to exempt royalty oil are effective only for oil removed after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, ATTN: CC:LR:T (202–566–3516, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On February 12, 1985, the Federal Register published proposed amendments to the Excise Tax Regulations (26 CFR Part 51) under section 4994, 4995, and 4996 of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to secton 101 (a)(1) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 230), (which added section 4994 to the Internal Revenue Code) as amended by sections 601 and 604 of the Economic Recovery Tax Act of 1981 (95 Stat. 335, 338) and section 201 (f) of the Technical Corrections Act of 1982 (96 Stat. 2393). They did not, however, reflect section 106 of the Technical Corrections Act of 1982 because regulations reflecting that section are to be published as part of another regulation project.

No public comments were received, and no public hearing was requested. The final regulations adopt the proposed rules without substantive change.

Evaluation of the effectiveness of the regulations after issuance will be based on comments received from offices within the Internal Revenue Service, the Treasury Department, other governmental agencies, State and local governments, and the public.

Explanation of the Provisions—Definitions Relating to Exemptions

Section 4991(b) provides that the term "exempt oil" (oil not subject to the windfall profit tax) means (1) crude oil from a qualified governmental interest; (2) crude oil from a qualified charitable interest; (3) exempt Indian oil; (4) exempt Alaskan oil; (5) exempt royalty oil; (6) exempt stripper well oil; and (7) exempt front-end oil. Section 4994 and the final regulations provide definitions of these categories of exempt oil, except that the definitions of front-end oil in secton 4994 (c) and exempt stripper well oil in section 4994 (g) are not included as part of these final regulations because they are the subject of other regulation projects.

Section 4994(a) and the final regulations define the term "qualified governmental interest." The interest must be held by a governmental body or its agency or instrumentality and the net income from the interest in crude oil is required to be dedicated to a public purpose. The term "public purpose" is defined by reference to section 170(c)(1) (relating to a charitable contribution made exclusively for public purposes). The term "net income" is also defined.

Section 4994(b) and the final regulations define the term "qualified charitable interest." The interest must be held by an educational organization, an organization that provides medical care, education or research, or an organization operated for the benefit of a state university. The interest must have been held by the organization on January 21, 1980. Special rules are provided for churches and private foundations. In addition, the final regulations clarify the holding requirement.

Under the final regulations, trusts and estates with governmental or charitable

beneficiaries may be entitled to exemption from tax liability and withholding.

Section 4994(d) and final regulations define the term "exempt Indian oil." The interest in crude oil must be held by a member of an Indian tribe, an Indian tribe, or an Indian tribal organization. The interest must have been held on January 21, 1980, and must be subject to a restriction on alienation. The final regulations define the term "Indian tribe" and provide special rules relating to native corporations organized under the Alaskan Native Claims Settlement Act.

Section 4994(e) and the final regulations define the term "exempt Alaskan oil." In connection with this definition, the proposed regulations define the term "divides of the Alaskan and Aleutian ranges," and give the longitude and latitude of peaks and elevations for defining the divide for purposes of the Aleutian Islands.

Section 4994(f) and the final regulations provide rules relating to "exempt royalty oil". This exemption is available only to qualifying individuals, estates, and family farm corporations that are producers or crude oil within the meaning of section 4996(a)(1). The exemption is not available to other corporations or to trusts. However, the final regulations contain a clarifying amendment to the regulations under section 4996(a)(1) defining the term "producer". In general, this rule makes it clear that in the case of grantor trusts the grantor, rather than the trust entity, is the producer. As a result, if the grantor is an individual, for example, such grantor may be entitled to claim the exemption under section 4994(f).

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not subject to review under Executive Order 12291. The Internal Revenue Service has concluded that the final regulations contained herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in this regulations have submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

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

List of Subjects

26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

26 CFR Part 602

OMB control numbers under the Paperwork Reduction Act.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 51 and Part 602 are amended by adopting the regulations proposed as a notice of proposed rulemaking published in the **Federal Register** on February 12, 1985 (50 FR 5770), except for the following changes:

1. The authority for Part 51 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

2. Paragraph (c)(4) of proposed § 51.4994–1 is amended by changing the heading thereof to read *"Section 509(a)(3) organizations."* and by removing the parenthetical "(relating to certain private foundations)" in paragraph (c)(4)(i).

3. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

4. Paragraph (c) of existing § 602.101(c) is amended by inserting in the appropriate places in the table § 51.4995–2(b)(1) . . . 1545–0912".

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: August 30, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

PART 51—[AMENDED]

Paragraph 1. The authority for Part 51 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 51.4994–1 is amended by revising the section heading and adding text to the section to read as follows:

§ 51.4994–1 Definitions relating to exemptions.

(a) *In general.* Section 4991(b) provides that the term "exempt oil" (oil not subject to the windfall tax) means—

(1) Any crude oil from a qualified governmental interest,

(2) Any crude oil from a qualified charitable interest,

(3) Any exempt Indian oil,

(4) Any exempt Alaskan oil,

(5) Any exempt front-end oil,

(6) Any exempt royalty oil, and

(7) Any exempt stripper well oil.

(b) *Qualified governmental interest*—(1) *In general.* Under section 4994(a)(1), a "qualified governmental interest" means an economic interest in crude oil if—

(i) Such interest is held by a State or political subdivision thereof or by an agency or instrumentality of a State or political subdivision thereof, and

(ii) Under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to a public purpose.

(2) *Net income*—(i) *In general.* For purpose of this paragraph, the term "net income" means gross income reduced by production costs, and severance taxes of general application, allocable to the economic interest.

(ii) *Production costs.* For the purpose of paragraph (b)(2)(i) of this section, production costs means all current costs borne by the governmental interest attributable to the production of crude oil. It includes operating expenses, selling expenses, financial and administrative overhead, depreciation, cost depletion (determined on the basis that all intangible drilling costs are capitalized), taxes on the producing property, and interest on debt incurred to finance production. It does not, however, include intangible drilling and development costs (except as provided in the preceding sentence) or interest on any debt incurred to acquire the economic interest.

(3) *Public purposes requirement.* For purposes of this paragraph, the term "public purpose" has the same meaning as in section 170(c)(1). The requirement in paragraph (b)(1)(ii) of this section that all of the net income received be dedicated to a public purpose shall be treated as met if all such net income is either used for a public purpose or placed in a permanent fund 100 percent of the earnings of which are dedicated to a public purpose. Net income used to pay interest on or retire debt incurred to acquire the economic interest will not be considered to be dedicated to a public purpose. The extent to which a debt is incurred to acquire the economic interest shall be determined on the basis of the principles set forth in section 514(c).

(4) *Trusts and estates.* If legal title to an interest in crude oil is held in trust or by an estate, the character of the persons entitled to the income of the

trust or the estate shall be imputed to the producer (the estate, the trust, or, in the case of a grantor trust, the grantor of the trust) to determine what portion, if any, of the interest is a qualified governmental interest. Also, for the purpose of this subparagraph, if the fiduciary maintains a reserve for depletion, or accumulates current income, the income set aside in such depletion reserve, or accumulated for future distribution, will be considered to be income of the fiduciary or of a beneficiary other than a qualifying governmental unit to the extent that such income can under any circumstances be distributed at some future time to a beneficiary that does not meet the requirements of section 4994(a). Accordingly, the share of the production of the trust or estate that is exempt under section 4994(a) is determined by dividing the sum of (i) the amount of income of the trust or estate attributable to crude oil for the year that is distributed to a qualified governmental unit, plus (ii) the amount of income from the crude oil production that is set aside that year in a reserve for depletion for the exclusive benefit of a qualified governmental unit, plus (iii) the amount of undistributed income for the year that is accumulated for the exclusive benefit of a qualified governmental unit by (iv) the total income for the year (whether distributed or not) attributable to crude oil.

(c) *Qualified charitable interest*—(1) *In general.* The term "qualified charitable interest" means an economic interest in crude oil if all of the following three requirements are met:

(i) The interest is held by an organization that is described in section 1PO(c)(2) (relating to a corporation, etc., organized and operated exclusively for religious, charitable, etc., purposes).

(ii) The organization holding the interest is also described in one of the following sections:

(A) Section 170(b)(1)(A)(iii) (relating to an educational organization).

(B) Section 170(b)(1)(A)(iii) (relating to an organization that provides medical care, education, or research).

(C) Section 170(b)(1)(A)(iv) (relating to an organization operated for the benefit of a State college or university, or

(D) With respect to taxable periods beginning after December 31, 1980, section 4994(b)(1)(A)(ii) (reflecting an organization organized and operated primarily for the residential placement, care, or treatment of delinquent, dependent, orphaned, neglected, or handicapped children).

(iii) The interest was held by the organization on January 21, 1980, and at all times thereafter before the last day of the taxable period.

(2) *Churches.* An economic interest is also a "qualified charitable interest" if all of the following four requirements are met:

(i) The interest is held by an organization described in section 170(b)(1)(A)(i) (relating to a church, convention or association of churches).

(ii) the organization holding the interest is also described in section 170(c)(2).

(iii) The interest is held for the benefit of one or more of the organizations described in paragraph (c)(1)(ii) of this section and in section 170(c)(2), and

(iv) The interest was held by the section 170(b)(1)(A)(i) organization on January 21, 1980, and at all times thereafter before the last day of the taxable period.

(3) *Trusts and estates.* (i) If legal title to an interest in crude oil is held in trust or by an estate, the character of the persons entitled to the income of the trust or estate attributable to the crude oil shall be imputed to the producer (the estate, the trust, or, in the case of a grantor trust, the grantor of the trust) to determine what portion, if any, of the interest is a qualified charitable interest. Also, for the purpose of this subparagraph, if the fiduciary maintains a reserve for depletion, or accumultates current income, the income set aside for such depletion reserve, or accumulated for future distribution, will be considered to be income of the fiduciary or of a beneficiary other than a qualifying charity to the extent that such income can under any circumstances be distributed at some future time to a beneficiary that does not meet the requirements of section 4994(b). Accordingly, the share of the production of the trust or estate that is exempt under section 4994(b) is determined by dividing the sum of (A) the amount of income of the trust or estate attributable to crude oil for the year that is distributed to a qualified beneficiary, plus (B) the amount of income from the crude oil production that is set aside that year in a reserve for depletion for the exclusive benefit of a qualified charity, plus (C) the amount of undistributed income for the year that is accumulated for the exclusive benefit of a qualified charity, by (D) the total income for the year (whether distributed or not) attributable to crude oil.

(ii) In applying paragraph (c)(3)(i) of this section, paragraph (c)(1)(iii) of this section will be applied both to the trust or the estate and to its beneficiaries. Accordingly, the trust or the estate must have held the interest for the benefit of a qualifying charity on January 21, 1980, and at all times thereafter before the last day of the taxable period. (See paragraph (c)(4) of this section for special rules relating to the holding requirement.) Furthermore, for the exemption to apply a charitable beneficiary must have had on January 21,1980, and at all times thereafter before the last day of the taxable period, an unconditional right to receive, either presently or in the future, a fixed amount of the net income from the interest (*e.g.*, a specified dollar amount or an amount determined by a formula).

(4) *Section 509(a)(3) organizations.* An economic interest is also a "qualified charitable interest" if all of the following requirements are met:

(i) The interest is held by an organization described in section 509(a)(3).

(ii) The organization holding the interest is operated exclusively for the benefit of an organization described in—

(A) Section 4994(b)(1)(A)(ii) (relating to organizations organized and operated primarily for the residential placement, care, or treatment of delinquent, dependent, orphaned, neglected, or handicapped children).

(B) Section 170(b)(1)(A)(ii) (relating to educational organization) which is also described in section 170(c)(2), and

(iii) The interest was held by the section 509(a)(3) organization on January 21, 1980, and at all times thereafter before the last day of the taxable period.

(5) *Holding requirement.* An interest in crude oil is considered "held for the benefit of" one of the organizations described in paragraph (c)(1)(ii) of this section only if all the net income from such interest (as defined in paragraph (b)(2) of this section) was dedicated to the organization on January 21, 1980, and at all times thereafter before the last day of the taxable period. The dedication need not be formal or written dedication. However, no dedication will be recognized if any of the net income from the interest was in fact used for a purpose other than to benefit the organization or organizations to which it was purportedly dedicated. The requirement of paragraph (c)(1)(iii) and (2)(iii) and (iv) of this section that the interest in crude oil be held by certain organizations on January 21, 1980, or be held on January 21, 1980, "for the benefit of" certain organizations, and at all times thereafter (before the last day of the taxable period) may be satisfied although the identical organization does not hold the interest, or the interest is not held for the benefit of the identical organization, on January 21, 1980, and

thereafter. For example, the holding requirements are satisfied if, on January 21, 1980, a church or trust held the interest for the benefit of an educational institution, and later the church or trust transferred the interest to an organization providing medical care, provided that both organizations otherwise meet the requirements of paragraph (c)(1) or (2).

(6) *Relationship to section 501(c)(3).* It is not necessary under this paragraph that the organization holding the interest in crude oil be recognized as exempt under section 501(c)(3).

(d) *Exempt Indian oil.* The term "exempt Indian oil" means any domestic crude oil which meets one or more of the following three requirements:

(1) The producer of the oil is an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization, under an economic interest held by such a tribe, member, or organization on January 21, 1980, and the oil is produced from mineral interests which are—

(i) Held in trust by the United States for the tribe, member, or organization, or

(ii) Held by the tribe, member, or organization subject to a restriction on alienation imposed by the United States because it is held by an Indian tribe, a member of an Indian tribe, or an Indian tribal organization; or

(2) The producer of the oil is a native corporation organized under the Alaska Native Claims Settlement Act (as in effect on January 21, 1980), and the oil—

(i) Is produced from mineral interests held by the corporations which were received under that Act, and

(ii) Is removed from the premises before 1992; or

(3) The proceeds from the sale of the oil are deposited in the Treasury of the United States to the credit of tribal or native trust funds pursuant to a provision of law in effect on January 21, 1980. The term "Indian tribe" means any group of individuals recognized as an Indian tribe eligible for services provided to Indians by the Secretary of Interior by his or her delegate. The term "native corporation organized under the Alaska Native Claims Settlement Act" includes a corporation that is a 100 percent-owned subsidiary of such a native corporation.

(e) *Exempt Alaska Oil*—(1) *In general.* The term "exempt Alaskan oil" means any crude oil (other than Sadlerochit oil) which is produced—

(i) From a reservoir from which oil has been produced in commercial quantities (within the meaning of paragraph (e)(2) of this section) through a well located north of the Arctic Circle,

(ii) From a well located north of the Arctic Circle, or

(iii) From a well located south of the Arctic Circle but on the northerly side of the divides of the Alaskan and Aleutian ranges and at least 75 miles from the nearest point on the Trans-Alaska Pipeline System.

(2) *Commercial quantities.* For a definition of commercial quantities, see paragraph (n) of § 51.4996–1. However, for purposes of this section, an unprofitable well located north of the Arctic Circle will not be considered to produce oil in commercial quantities if the only purpose for producing oil from that well is to exempt a reservoir from the windfall profit tax under section 4994(e)(1) and paragraph (e)(1)(i) of this section. For the purpose of the preceding sentence, for a taxable period a well will be considered to be unprofitable if the total current costs of producing the crude oil incurred during the taxable period exceeds the market value of the oil produced from that well during such period.

(3) *Definition of divides of Alaskan and Aleutian Ranges.* The term "divides of the Alaskan and Aleutian ranges" means the ridge or crest of land (with respect to those ranges) that marks the boundary between adjacent drainage basins, on either side of which the heads of streams flow in opposite directions. However, for purposes of the Aleutian Islands only, the divide is deemed to be a line constructed by connecting the main peaks or elevations in the island chain. The location of these peaks are listed in the paragraph (e)(4).

(4) *Listing of peaks or elevations for purposes of line through Aleutian Islands.* The peaks or elevations used to construct a dividing line through the Aleutian Islands are a follows (within 2,000 feet accuracy):

Latitude	*Longitude*
61 942N	1521950W
605917N	1524742W
605337N	15254442W
604357N	1523438W
603918N	15250 7W
603716N	153 4 6W
603140N	153 850W
602812N	1531657W
60 449N	1532735W
595824N	1532831W
595414N	1532340W
594631N	15336 9W
594016N	15347 5W
592547N	154 357W
591434N	1543843W
59 853N	1544329W
59 041N	1544051W
585459N	15438 7W
5852 7N	1543238W
584743N	1543516W
5843 8N	1543614W
5841 0N	1543131W
583837N	15428 7W
583318N	1542030W
582555N	1542314W
5820 6N	15441 0W
581650N	1545654W
581513N	155 112W
5814 6N	155 6 4W
581143N	1551454W
5810 9N	1552115W
58 5 3N	1551830W
575742N	1551846W
5751 9N	1552628W
574512N	1554151W
574459N	1554557W
574011N	1555510W
573238N	156 448W
573034N	1562123W
572816N	1562625W
572535N	1563046W
571144N	1564452W
57 715N	1564812W
57 1 0N	15711 8W
5657 0N	158 659W
565614N	1581145W
565127N	158 740W
564638N	1575445W
564149N	1575455W
563614N	158 643W
563438N	1581012W
563314N	1582110W
563050N	1583543W
563236N	1584115W
563153N	1584625W
561546N	1591938W
561418N	1592142W
561319N	1591757W
561113N	1592615W
56 133N	1593529W
56 040N	1594723W
555643N	1595819W
555448N	160 234W
5552 7N	160 548W
5547 3N	160 624W
554246N	16011 2W
554226N	1602153W
554327N	1602717W
554253N	16032 3W
554037N	16037 6W
553811N	1603943W
553640N	1604314W
553819N	1605838W
553827N	1611255W
552731N	1615118W
552459N	1615351W
552227N	162 859W
551451N	162 857W
5511 5N	1621647W
55 438N	16249 7W
545838N	163 445W
545548N	163 742W
545327N	1631410W
544937N	16320 1W
5448 9N	1633530W
544610N	16344 4W
544525N	1635815W
544420N	164 917W
544412N	1642334W
544043N	1642842W
5437 3N	1642730W
543418N	1644127W
543256N	16448 2W
541735N	1653036W
5415 9N	1653932W
541134N	16554 5W
54 8 3N	1655917W
535817N	1664055W
535731N	1664714W
535644N	1665358W
535315N	1665511W
5352 2N	1664822W
535010N	1663830W
534526N	1663955W
534034N	1663846W
533857N	1664124W
5336 1N	1664723W
533425N	1665041W
533056N	1665954W
532648N	167 540W
532439N	1671056W
532241N	1672035W

532028N	1672747W
532038N	1673322W
531927N	1674517W
532226N	168 326W
532315N	1681352W
5316 0N	1681731W
53 922N	1683214W
53 737N	1684128W
525029N	1694519W
524925N	1695646W
524439N	170 649W
523915N	1703934W
523631N	1704711W
523427N	171 817W
522957N	1711515W
521925N	1722113W
5219 7N	1723050W
521627N	1723450W
52 527N	173 313W
52 513N	173 736W
52 512N	17316 2W
52 5 8N	1732617W
52 532N	1733425W
52 617N	1733742W
52 449N	1734454W
52 442N	1734841W
521840N	174 129W
522246N	174 932W
521949N	174 8 5W
52 9 8N	1741515W
52 648N	1742959W
52 3 5N	1744417W
52 315N	1745046W
52 1 9N	175 238W
52 244N	1751026W
52 117N	1751849W
5159 3N	1752643W
515727N	1754314W
515649N	1754756W
515833N	1755413W
52 429N	176 622W
52 218N	176 711W
515220N	176 157W
514938N	17613 2W
515119N	17618 5W
515116N	1762119W
515019N	1762842W
515614N	1764416W
515526N	177 927W
514953N	1774113W
514921N	1775618W
515159N	178 123W
515311N	178 826W
514724N	1784731W
515523N	17941 9E
5158 6N	1794036E
5159 4N	1793614E
515720N	1783210E
52 057N	178 817E
52 6 9N	1773642E
52 135N	1773343E
515813N	17729 5E
515654N	1772225E
515524N	1771929E
515411N	1771743E
522053N	1755513E
5230 0N	1734314E
5229 7N	17341 4E
522842N	1733842E
522731N	1733449E
525030N	1732514E
525214N	173 330E
525337N	1725912E
5256 1N	1724449E
525729N	1724122E
525527N	1723132E

(f) *Exempt royalty oil*—(1) *General rule.* The term "Exempt royalty oil" means with respect to a qualified royalty owner (as defined in paragraph (f)(2) of this section) that portion of such owner's qualified royalty production (as defined in paragraph (f)(3) of this section) for a calendar quarter that does not exceed the royalty limit (as defined in paragraph (f)(4) of this section) for the quarter.

(2) *Qualified royalty owner.* The term "qualified royalty owner" means a producer (within the meaning of section 4996(a)(1)), but only if the producer is:

(i) An individual

(ii) An estate, or

(iii) A qualified family farm corporation (within the meaning of section 6429(d)(4)).

The term does not include a trust. However, in the case of a grantor trust (*i.e.*, a trust where the grantor or another person is treated as substantial owner of the trust under subpart E of subchapter J of chapter 1 of the Code), the person or entity who is treated as substantial owner may qualify if such person or entity is an individual, an estate, or a qualified family farm corporation.

(3) *Qualified royalty production*—(i) *General rule.* The term "qualified royalty production" means, with respect to any qualified royalty owner, crude oil removed after December 31, 1981, which would be taxable crude oil (within the meaning of section 4991(a)) except for the exemption in section 4991(b)(5) and which is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)).

(ii) *Exclusion for certain interests created after June 9, 1981.* The term "qualified royalty production" does not include crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the qualified royalty owner which:

(A) Is created after June 9, 1981, out of an operating mineral interest in property which is a proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

(B) Is not created pursuant to a binding written contract (including an irrevocable written option) entered into before June 10, 1981.

The exclusion in this subdivision, however, does not apply to a landowner that retains a royalty on a lease of a proven property owned by such landowner.

(iii) *Exclusion for production from certain transferred properties*—(A) *In general.* In the case of a transfer of an interest in any property, the qualified royalty production of the transferee shall not include any production attributable to an interest that has been transferred after June 9, 1981, in a transfer which is described in section 613A(c)(9)(A). For the purpose of the preceding sentence, a transfer includes a sublease and property held by an estate shall be treated as owned both by the estate and proportionately by the beneficiaries of the estate.

(B) *Exception for certain transfers at death or among certain related persons.* The transfer rule of paragraph (f)(3)(iii)(A) of this section does not apply to any transfer described in section 613A(c)(9)(B) (relating to certain transfers at death or among certain related persons).

(C) *Exception for certain transfers where the transferor and the transferee are required to share the royalty limit.* The transfer rule of paragraph (f)(3)(iii)(A) of this section shall not apply to any transfer so long as the transferor and the transferee are required to share the royalty limit in accordance with the rules of paragraph (f)(4) of this section, but only if the production from the property was qualified royalty production of the transferor.

(4) *Royalty limit*—(i) *In general.* A qualified royalty owner's qualified royalty production is determined by applying section 4994(f)(2)(A).

(ii) *Production exceeds limitation.* If a qualified royalty owner's qualified royalty production for any quarter exceeds the royalty limit in section 4994(f)(2)(A) for such quarter, the royalty owner may allocate the royalty limit for such quarter to any qualified royalty production that the royalty owner selects.

(iii) *Allocation of royalty limit among taxpayers.* For the purpose of allocating the royalty limit in section 4994(f)(2)(A) among taxpayers, section 6429(c)(2) thru (4) will be applied except that the royalty limit determined under section 4994(f)(2)(A) is substituted in place of $2,500 each time it appears in section 6429(c)(2) thru (4).

(g) *Exempt stripper well oil.* [Reserved]

Par. 3. Paragraph (b)(1) of § 51.4995–2 is revised to read as follows:

§ 51.4995–2 Producer's certificate.

* * * * *

(b) *Exemption certificate*—(1) *In general.* For purposes of this section, an exemption certificate is a written statement certifying that all of the producer's crude oil from a property is exempt from the tax imposed by section 4986 because the crude oil constitutes exempt Indian oil or exempt royalty oil or the oil is from a qualified governmental interest or a qualified charitable interest. In the case of a trust or estate described in paragraphs (b)(4) or (c)(3) of § 51.4994–1, the exemption

certificate may certify that a percentage of the oil from that property is exempt from the tax imposed by section 4986 because that portion of the oil is oil from a qualified charitable or governmental interest. The percentage referred to in the preceding sentence may be based on a reasonable estimate of the percentage of the oil from the property that is held for the benefit of a qualified charity or governmental unit for that taxable period. Any producer who furnishes an exemption certificate (other than an exempt royalty owner's certificate) to an operator, purchaser, partnership, or other disburser shall also file an exemption certificate with the Internal Revenue Service Center, Austin, Texas. Only one such certificate need be filed even though the producer may furnish certificates to more than one operator, purchaser, partnership, or other disburser.

* * * * *

Par. 4. Paragraph (b)(2) of § 51.4996–1 is revised to read as follows:

§ 51.4996–1 Definitions.

* * * * *

(b) *Producer* * * *

(2) *Partnerships, trusts, and estates.* In the case of a partnership, the partnership's economic interest in the crude oil shall be allocated among the partners on the basis of each partner's proportionate share of the partnership's income from the crude oil, and the partner to whom the crude oil is allocated shall be treated as the producer of the crude oil. In the case of a trust (other than a grantor trust, *i.e.*, a trust where the grantor or another person is treated as substantial owner of the trust under subpart E of subchapter J of chapter 1 of the Internal Revenue Code) or an estate, the entity is the producer rather than the beneficiaries. In the case of a grantor trust, to the extent that a person or entity (the grantor or another person) is treated for purposes of income taxation under subchapter J of chapter 1 of the Internal Revenue Code as the owner of a crude oil interest held by such trust, such person or entity shall be deemed to be the producer of the crude oil attributable to such interest for purposes of section 4996(a)(1). (See also § 51.4994–1 for special rules concerning the treatment of trusts and estates for purposes of determining the applicability of certain exemptions from the windfall profit tax.)

* * * * *

Par. 5. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805. * * *

PART 602—[AMENDED]

§ 602.101 [Amended]

Par. 6. Paragraph (c) of existing § 602.101(c) is amended by inserting in the appropriate places in the table § 51.4995–2(b)(1) . . . 1545–0912".

[FR Doc. 85–23936 Filed 10–7–85; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

26 CFR Parts 51 and 602

[T.D. 8055]

Credit or Refund of Windfall Profit Tax Paid by a Trust

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under sections 4994, 4997, and 6430 relating to a credit or refund of windfall profit tax paid by a trust with respect to royalty oil to certain beneficiaries of that trust. Changes to the applicable law where made by the Technical Corrections Act of 1982. These final regulations provide the public with guidance needed to comply with the law as amended by that Act.

DATE: These amendments are effective with respect to crude oil removed (or deemed removed) during calendar years beginning after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3516, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On November 20, 1984, the Federal Register published proposed regulations under section 6430 relating to a credit or refund of windfall profit tax paid by a trust with respect to royalty oil to certain trust beneficiaries. The amendments were proposed to conform the regulations to section 106(a)(4)(A) of the Technical Corrections Act of 1982 (96 Stat. 2388).

Two written comments on the proposed regulations were received. A public hearing was not requested.

Explanation of the Provisions

The final regulations essentially adopt the rules set forth in the notice of proposed rulemaking without substantive change.

Under section 6430(a) and the final regulations, any portion of the windfall profit tax paid by a trust which is attributable to a qualified beneficiary is treated as an overpayment of windfall profit tax by such beneficiary. This overpayment is to be credited against any windfall profit tax imposed on the beneficiary or refunded to the beneficiary. An overpayment is attributable to a qualified beneficiary to the extent that windfall profit tax is paid by the trust, with respect to the qualified royalty production of the trust that is allocated, in accordance with rules contained in section 6430 and the final regulations, to such qualified beneficiary.

Under section 6430(b) and the final regulations, the amount under section 6430(a) is limited to an amount attributable to the beneficiary's unused exempt royalty limit for the calendar year. The final regulations also provide rules for allocating the qualified royalty production of the trust between the trust and its income beneficiaries and definitions for the terms "qualified beneficiary," "qualified royalty production" and "producer."

The final regulations provide that a qualified beneficiary shall treat a credit for, or refund of, windfall profit tax determined under section 6430 as an additional distribution to such beneficiary of distributable net income (DNI) of the trust. The beneficiary shall then include this additional distribution of DNI in income. This rule is designed to reflect the fact that taxes generating the overpayment are deductible by the trust against its income tax liability even though such taxes have been refunded to the trust's beneficiaries. If the trust had paid or incurred the net amount of windfall profit tax during the year (*i.e.*, net of the overpayment) and claimed the corresponding deduction for taxes, the trust would have had additional DNI to distribute to its beneficiaries. This additional DNI to the trust would then generate an additional deduction to the trust when distributed to the beneficiaries, and the beneficiaries would have included such distribution in gross income. Absent the rule described in this paragraph, the beneficiary would, in effect, be getting a distribution of DNI from the trust tax-free.

The final regulations also clarify that section 6430 is not available to the extent that the trust is a grantor trust

(*i.e.*, a trust the income of which is taxed to a grantor, or other person, under subchapter J of the Code) since a grantor trust does not have adjusted distributable net income and since the grantor, rather than the trust, is generally the producer in the case of a grantor trust.

Under section 4994(f)(2)(C) and the final regulations, a qualified beneficiary may elect to increase the credit under section 6430 by reducing the royalty owner's exemption under section 4994(f).

The final regulations also contain an amendment to the regulations under section 4997 which would impose on a trust the requirement to furnish to each qualified beneficiary a Form 6248.

Public Comments

Two public comments were received. The first comment related to a requirement of Texas law that a trustee charge the income account for all windfall profit tax while reserving 27½ percent of the gross mineral proceeds for addition to principal. The commentator asked that the regulations be changed to provide that windfall profit tax paid by a trust with respect to the trust's share of production be treated as an overpayment of windfall profit tax under section 6430 if the tax is charged against the income beneficiaries' accounts even though the tax is not paid with respect to the beneficiaries' allocable trust production. However, section 6430 authorizes the treatment of windfall profit tax paid by a trust as an overpayment of tax by a trust beneficiary only if that tax is paid by the trust with respect to that beneficiary's allocable trust production. Therefore, this change was not made.

The second comment concerned the requirement in section 6430(c)(2)(A)(ii) and § 51.6430–1(c)(2) that production be allocated between the trust and the income beneficiaries in accordance with their respective shares of the adjusted distributable net income for the calendar year. One commentator stated that it would be overly burdensome to require a fiscal year trust to compute adjusted distributable net income on a calendar year basis. Section 6430(c)(2)(A)(ii), however, speaks in terms of a calendar year calculation. As a result, no change was made.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that the final regulations contained herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

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

List of Subjects

26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

26 CFR Part 602

OMB control numbers under the Paperwork Reduction Act.

Adoption of amendments to the regulations

Accordingly, 26 CFR Parts 51 and 602 are amended by adopting the regulations proposed as a notice of proposed rulemaking published in the **Federal Register** on November 20, 1984 (49 FR 45758), except for the following changes:

1. The authority for Part 51 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * § 51.6430–1 also issued under 26 U.S.C. 6430(e).

2. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

3. Section 602.101(c) is amended by adding in the appropriate places in the table "§ 51.4994–1(f)(4)(iv) . . . 1545–0224" and "§ 51.4997–2(c)(7) . . . 1545–0224".

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: August 30, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

PART 51—[AMENDED]

Paragraph 1. The authority for Part 51 is amended by adding the following citation:

Authority: 26 aU.S.C. 7805. * * * § 51.6430–1 also issued under 26 U.S.C. 6430(e).

Par. 2. Section 51.4994–1 is amended by revising paragraph (f)(4) as follows:

§ 51.4994–1 Definitions relating to exemptions.

* * * * *

(f) *Exempt royalty oil.* * * *

(4) *Royalty limit*—(i) *In general.* Except as provided in paragraph (f)(4)(iv) of this section, a qualified royalty owner's qualified royalty production is determined by applying section 4994(f)(2)(A).

(ii) *Production exceeds limitation.* If a qualified royalty owner's qualified royalty production for any quarter exceeds the royalty limit in section 4994(f)(2)(A) for such quarter, the royalty owner may allocate the royalty limit for such quarter to any qualified royalty production that the royalty owner selects.

(iii) *Allocation of royalty limit among taxpayers.* For the purpose of allocating the royalty limit in section 4994(f)(2)(A) among taxpayers, section 6429(c)(2) through (4) will be applied except that the royalty limit determined under section 4994(f)(2)(A) is substituted in place of $2,500 each time it appears in section 6429(c)(2) thru (4).

(iv) *Election to increase section 6430 royalty credit by reducing the royalty owner's exemption.* Any qualified royalty owner who is a qualified beneficiary (within the meaning of section 6430 and § 51.6430–1(d)(1) for any quarter may elect, by way of a marginal notation on Form 6249, to reduce by any amount the qualified royalty owner's royalty limit determined under section 4994(f)(2)(A) for such quarter after applying paragraph (f)(4)(iii) of this section.

* * * * *

Par. 3. Paragraph (c) of § 51.4997–2 is amended by adding at the end thereof a new paragraph (c)(7) to read as follows:

§ 51.4997–2 Certain information to be furnished by producers and others.

* * * * *

(c) *Yearly statement of windfall profit tax liability*

* * * * *

(7) *Trusts with qualified royalty production.* In the case of any trust that is a producer (within the meaning of paragraph (b) of § 51.4966–1), that has qualified royalty production for the calendar year (within the meaning of § 51.6430–1(d)(2)) and that has beneficiaries who are qualified beneficiaries (within the meaning of § 51.6430–1(d)(1)), such trust shall furnish to each qualified beneficiary, and file with the Internal Revenue Service, a Form 6248 in accordance with that form's instructions and the rules of this paragraph. A separate statement shall be furnished to, and a separate information return shall be filed for, each qualified beneficiary.

* * * * *

Par. 4. There is added immediately after § 51.6402–1 the following new section:

§ 51.6430–1 Credit or refund of windfall profit tax to certain trust beneficiaries.

(a) *General rule.* Except as otherwise provided in paragraph (b) of this section, that portion of the crude oil windfall profit tax imposed by section 4986 which is paid by any trust with respect to any qualified beneficiary's allocable trust production (within the meaning of paragraph (c) of this section) shall be treated as an overpayment of such tax by such qualified beneficiary. The overpayment described in this paragraph (a) is deemed to be made on the day that an overpayment by the trust would be deemed to be made if the trust's payment of such tax with respect to the same crude oil were an overpayment. Any such overpayment shall be credited against the crude oil windfall profit tax liability of such qualified beneficiary or shall be refunded to such qualified beneficiary. See paragraph (b) of this section for a rule that coordinates this credit or refund with the exemption for exempt royalty oil provided in section 4994(f) and which may require a reduction of the amount determined under this paragraph. See paragraph (d) of this section for definitions of the terms "qualified beneficiary", "qualified royalty production", and "producer".

(b) *Coordination with royalty exemption*—(1) *In general.* If the aggregate amount of the allocable trust production (as defined in paragraph (c) of this section) attributable to any qualified beneficiary exceeds such beneficiary's unused exempt royalty limit for such calendar year, then the amount treated as an overpayment under paragraph (a) of this section with respect to such qualified beneficiary shall be reduced by the amount of the overpayment attributable to such excess. The amount of this reduction is equal to the amount of the overpayment determined under paragraph (a) multiplied by a fraction the numerator of which is the amount of such excess and the denominator of which is the aggregate amount of the beneficiary's allocable trust production, and can be expressed by the following formula:

$$R = O \times \frac{E}{P}$$

Where:

R = the amount of the reduction;
O = the amount of the overpayment determined under paragraph (a) of this section;
E = the amount of the excess; and
P = the aggregate amount of the beneficiary's allocable trust production.

(2) *Unused exempt royalty limit.* The unused exempt royalty limit of any qualified beneficiary for any calendar year is the amount described in section 6430(b)(2) which can be expressed in terms of the following formula:

$$U = (D \times L) - Y$$

Where:

U = the unused exempt royalty limit;
D = the number of the days in such calendar year;
L = the limitation in barrels determined from the table contained in section 4994(f)(2)(A)(ii); and
Y = the amount of exempt royalty oil (within the meaning of section 4994(f) with respect to which such qualified beneficiary is the producer, and which is removed from the premises during such calendar year.

(c) *Allocable trust production*—(1) *In general.* For purposes of this section, the term "allocable trust production" means, will respect to any qualified beneficiary, the qualified royalty production of any trust (as defined in paragraph (d)(2) of this section) which is removed (or deemed removed) from the premises during the calendar year, and is allocated to such qualified beneficiary under paragraph (c)(2) of this section.

(2) *Allocation of production*—(i) *In general.* The qualified royalty production of a trust for any calendar year shall be allocated between the trust and its income beneficiaries by first allocating to the trust an amount of production based on that portion of the trust income attributable to the qualified royalty production that is set aside under state law in any reserve for depletion for the calendar year, and by then allocating the remaining qualified royalty production between the trust and the income beneficiaries in accordance with their respective shares of the adjusted distributable net income for the calendar year attributable to the qualified royalty production. Adjusted distributable net income not attributable to qualified royalty production and income set aside in a depletion reserve not attributable to qualified royalty production shall not be considered for purposes of this calculation. Furthermore, the calculation must be done on the basis of a calendar year even though the trust's taxable year may be other than a calendar year. Thus, for purposes of this paragraph (c)(2), a fiscal year trust must compute its adjusted distributable net income for the calendar year and its reserve for depletion for the calendar year.

(ii) *Adjusted distributable net income.* The term "adjusted distributable net income" means the distributable net income (as defined in section 643) of the trust for the calendar year reduced by any excess in the amount of income added to any depletion reserve maintained by the trust for the calendar year (regardless of the trust's taxable year) over the depletion deduction allowable to the trust under section 611 with respect to the qualified royalty production of the trust for the calendar year.

(iii) *Allocation pro rata from each unit of production.* Each person's allocable share of the qualified royalty production of the trust is deemed to be a pro rata share of each unit (*i.e.*, type and category, including each base price and removal price category) of oil in such qualified royalty production.

(iv) *Grantor trusts.* To the extent that a trust is a grantor trust (*i.e.*, a trust the income of which is taxed to a grantor, or other person, under subchapter J of the Code), qualified royalty production shall not be allocated to a qualified beneficiary of the trust under this section because, to the extent that a trust is a grantor trust, the trust does not have adjusted distributable net income and the grantor rather than the trust is the producer of the crude oil. (See § 51.4996–1(b)(2).)

(3) *Production from transferred Property—(i) In general.* The allocable trust production of any qualified beneficiary shall not include any production attributable to an interest in property which has been transferred after June 9, 1981, in a transfer (including changes in beneficiaries of the trust) which is described in section

613A(c)(9)(A), and is not described in section 613A(c)(9)(B).

(ii) *Exception.* Paragraph (c)(3)(i) of this section shall not apply in the case of any transfer so long as the transferor and the qualified beneficiary are required by section 6340(b)(3) to share the amount determined under section 6430(b)(2)(A). The preceding sentence shall apply to the transfer of any property only if the production attributable to the property was allocable trust production or qualified royalty production of the transferor.

(d) *Definition—(1) Qualified beneficiary.* The term "qualified beneficiary" means any individual or estate which is a beneficiary of any trust which is a producer.

(2) *Qualified royalty production of a trust.* The term "qualified royalty production of a trust" generally means, with respect to any trust, taxable crude oil (within the meaning of section 4991 (a)) which is attributable to an economic interest of such trust other than an operating mineral interest (within the meaning of section 614(d)). However, such term does not include taxable crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the person which—

(A) Is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

(B) Is not created pursuant to a binding contract entered into before June 10, 1981.

(3) *Producer.* The term "producer" has the meaning given to such term by paragraph (b) of § 51.4996–1.

(e) *Overpayment treated as additional distribution.* Any qualified beneficiary who claims a credit or refund as a result of an overpayment generated under section 6430 must treat the amount of such credit or refund as an additional distribution of distributable net income of the trust. Such distribution shall be in addition to any other amount of distributable net income distributed to such beneficiary, and shall be deemed to be paid or accrued on the date that the credit or refund under this section is paid or accrued.

(f) *Example.* The following examples illustrate the application of the rules of this paragraph:

Example (1). Assume that for the calendar year 1983, Trust A has 2,000 barrels of qualified royalty production, royalty income of $60,000, $10,000 of cash expenses, and claims a percentage depletion deduction of $9,600 while setting aside $18,000 (2,000 barrels × 30 percent × $30/barrels) of royalty income in a reserve for depletion recognized under state law. Thus, the excess of the reserve for depletion for the year over the amount allowable as a deduction for depletion to the trust for the year is $8,400 ($18,000—$9,600). Assume further that A paid windfall profit tax on the royalty oil removed during the calendar year in the amount of $4,000 ($2 per barrel). Under these facts, the first 600 barrels (2,000 barrels × $18,000/$60,000) of A's qualified royalty production is allocated to A. In addition, A has distributable net income in the amount of $40,400 ($60,000—$10,000—$9,600) and adjusted distributable net income of $32,000 ($40,400—$8,400). If under the provisions of the trust document A distributes the $32,000 of income to the two beneficiaries, B and C, in the amounts of $22,857 and $9,143, respectively, the remaining 1,400 barrels of qualified royalty production (2,000 barrels—600 barrels allocated to the trust) must be allocated between B and C as follows:

1,000 barrels to B (1,400 × (22,857/32,000) and 400 barrels to C (1,400 × (9,143/32,000)). Assume all of the qualified royalty production is removed from the same property. Under section 6430(a) and paragraph (a) of this section and before the application of section 6430(b) and paragraph (b) of this section, B would be treated as having made an overpayment of windfall profit tax during the calendar year in the amount of $2,000 ($2×1,000 barrels) and C would be treated as having made an overpayment in the amount of $800 ($2×400 barrels).

Example (2). Assume the same facts as in example (1), and assume that C claimed a royalty owner's exemption under section 4994 (f) for the calendar year with respect to 500 barrels of oil held outside the trust. Under these facts, both B and C must reduce the overpayment determined under paragraph (a) of this section. B's unused royalty limit is 730 barrels (365 days × 2 barrels) and the excess of the number of barrels allocated to B in example (1) over the unused royalty limit is 270 barrels (1,000 barrels—730 barrels). C's unused royalty limit is 230 barrels (730 barrels—500 barrels) and the excess of the number of barrels allocable to C in example (1) over the unused royalty limit is 170 barrels (400 barrels—230 barrels). As a result, B must reduce the amount of the overpayment by $540 ($2,000 × (270 barrels/1,000 barrels)) and C must reduce the amount of the overpayment by $340 ($800 × (170 barrels/400 barrels)). Thus, B may claim a credit or refund in the amount of $1,460 ($2,000—$540) and must, if such credit or refund is claimed, treat the $1,460 as an additional distribution of distributable net income. C may claim a credit or refund in the amount of $460 ($800—$340) and must, if such credit or refund is claimed, treat the $460 as an additional distribution of distributable net income.

(g) *Overpayment credited against estimated tax liability.* See section 6654g(3)(B) for a rule that allows a taxpayer to offset the overpayment determined under this secion against the taxpayer's liability to make estimated tax payments.

PART 602—[AMENDED]

Par. 5. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by adding in the appropriate places in the table "§ 51.4994–1(f)(4)(iv) . . . 1545–0224" and "§ 51.4997–2(c)(7) . . . 1545–0224".

[FR Doc. 85–23935 Filed 10–7–85; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 500

Migrant and Seasonal Agricultural Worker Protection Regulations; Issuance of Farm Labor Contractor Certificates of Registration by States

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: This is a procedural amendment authorizing the Commonwealth of Virginia by agreement with the Department of Labor to issue Farm Labor Contractor Certificates of Registration and Farm Labor Contractor Employee Certificates of Registration in compliance with the Migrant and Seasonal Agricultural Worker Protection Act and regulations issued thereunder. This document lists the Commonwealth of Virginia as authorized to issue farm labor contractor certificates of registration and farm labor contractor employee certificates of registration.

EFFECTIVE DATE: October 8, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8305.

SUPPLEMENTARY INFORMATION: The Migrant and Seasonal Agricultural Worker Protection Act authorizes the Secretary to enter into agreements with Federal and State agencies to utilize their facilities and services, and to delegate to such agencies certain authority, other than rulemaking, as the Secretary deems necessary in carrying out the provisions of the Act. Under this authority the Virginia Employment Commission, Commonwealth of Virginia has entered into an agreement with the Department of Labor to continue to receive, handle, and process applications and issue certificates of

registration under the Migrant and Seasonal Agricultural Worker Protection Act. The Commonwealth previously performed these functions under an agreement which had been entered into pursuant to the Farm Labor Contractor Registration Act, as amended. The Farm Labor Contractor Registration Act was repealed and replaced by the Migrant and Seasonal Agricultural Worker Protection Act, effective April 14, 1983.

This document incorporates into the existing regulations these delegated functions of the Secretary to the Commonwealth of Virginia and lists the Commonwealth as being authorized to issue farm contractor certificates of registration and farm labor contractor employee certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act which are entitled to the same recognition in all states as if they had been issued by the Department Labor.

The authority conferred by section 513 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1863) requires the issuance of regulations which authorize the Department to enter into agreements with states to carry out delegated functions, such as the issuance of certificates of registration on behalf of the Secretary. These regulations were issued in final form on August 12, 1983 (FR 36761 *et seq.*) and appear at 29 CFR 500.155 through 500.162. Agreeements entered into pursuant to this authority are effective upon execution and notice to the public thereof is required. The Commonwealth of Virginia has executed such agreement, effective April 30, 1985 and notice is hereby given.

This document was prepared under the direction and control of Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, Employment Standards Administrator, Department of Labor.

Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving public comment on this procedural amendment to the regulation because such comment is unnecessary. This finding is made because section 513 of the Migrant and Agricultural Worker Protection Act (29 U.S.C. 1863) and the regulations issued thereunder at 29 CFR 500.155 through 500.162 authorize the Secretary to enter into agreements with State agencies to use their facilities and services to perform functions delegated to them by the Secretary as may be useful in carrying out this Act. Such agreements are effective upon their execution as noted above and merely require notice of such execution.

Effective Date

The Department has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. Therefore, this amendment shall be effective October 8, 1985.

This finding is made because the agreement with the Commonwealth of Virginia became effective upon its execution (April 30, 1985) and affects only the procedural processing of certificates of registration.

Executive Order 12291

The Department has determined that the amendment is procedural in character and announces an agreement between a state and the Department of Labor. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) 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. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

As the incorporation of the agreement with the Commonwealth of Virginia requires the collection of no additional information additional approval of the Office of Management and Budget is not required. See 44 U.S.C. 3501 *et seq.*

List of Subjects in 29 CFR Part 500

Administrative practice and procedure, Agriculture, Aliens, Carpools, Farmers, Health, Housing, Housing standards, Immigration, Insurance, Investigations, Labor, Manpower training programs, Migrant worker, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements, Safety, Transportation, Wages.

For reasons set out in the preamble, Part 500 of Chapter V of Title 29 of the Code of Federal Regulations, is amended as set forth below:

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

1. The authority citation for Part 500 is revised to read as follows:

Authority: Pub. L. 97-470, 96 Stat. 2583 (29 U.S.C. 1801-1872 and Secretary's Order No. 6-84, 49 FR 32473.

2. Section 500.160 is amended by revising paragraph (a) to read as follows:

§ 500.160 Approved State plans.

(a) The Secretary, in accordance with the authority referred to in § 500.155 of this part, has delegated the following functions to the States listed herein below:

State	Function
Florida	Receive, handle, process applications and issue certificates of registration.
Virginia	Receive, handle, process applications and issue certificates of registration.

* * * * *

Signed at Washington, D.C. this 2nd day of October, 1985.

Susan R. Meisinger,

Deputy Under Secretary, Employment Standards Administration.

Herbert J. Cohen,

Deputy Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 85-24050 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

Private Land Mobile Radio Services and Operational-Fixed Microwave Services; Editorial Amendment

Correction

In FR Doc. 85-23107, beginning on page 39676 in the issue of Monday, September 30, 1985, make the following corrections:

§ 90.25 [Corrected]

1. On page 39677, third column, in § 90.25(b), in the first column of the

table, "851 to 855" should have read "851 to 866".

§ 90.55 [Corrected]

2. On page 39678, first column, in the sixth line of the introductory text of § 90.55, "1984" should have read "1974".

BILLING CODE 1505-01-M

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47 CFR Parts 90 and 94

Private Land Mobile Radio Services and Operational-Fixed Microwave Services; Editorial Amendment

Correction

In FR Doc. 85-23107 beginning on page 39676 in the issue of Monday, September 30, 1985, on page 39676, third column, the effective date should read, "September 30, 1985."

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 705 and 706

[AIDAR Notice 85-11]

Acquisition Regulation Concerning Noncompetitive Contracting Authorities

AGENCY: Agency for International Development, IDCA.

ACTION: Interim rule and request for comment.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to re-establish three AID-specific noncompetitive contracting authorities and a related publicizing exception previously authorized under section 7-3.107-50 of the AID Procurement Regulation (41 CFR 7-3.107-50).

DATES:

Effective Date: October 8, 1985.

Comment Date: Please submit comments by November 7, 1985.

ADDRESS: Comments should be submitted to: Agency for International Development, Washington, D.C. 20523, Attn: AIDAR Notice 85-11, Mr. K. E. Fries, GC/CCM, Room 6949, New State.

FOR FURTHER INFORMATION CONTACT: GC/CCM, Kenneth E. Fries, telephone (202) 632-1170.

SUPPLEMENTARY INFORMATION: This AIDAR Notice amends the AIDAR to re-establish three AID-specific noncompetitive (i.e., other than full and open competition) contracting authorities and related publicizing exception. It provides that full and open competition need not be obtained when it has been determined that it would impair foreign assistance objectives. This authority may be used:

—For award under section 636(a)(3) of the Foreign Assistance Act of a contract for personal services abroad.

—For award of a contract of $100,000 or less by an overseas contracting activity.

—For awards where an Assistant Administrator has determined that use of full and open competition would impair foreign assistance objectives and would be inconsistent with fulfillment of the foreign assistance program, or for awards for countries, regions, projects or programs where the Administrator has made such determinations and findings.

This rule was approved by the Office of Federal Procurement Policy and the Office of Management and Budget as required by OMB Bulletin 85-7.

The Small Business Administration has, under section 8(g)(3) of the Small Business Act, found that the synopsizing exception in this Notice will not be detrimental to small business interests.

As required by the Regulatory Flexibility Act, it is hereby certified that AIDAR Notice 85-11 will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 48 CFR Parts 705 and 706

Government procurement.

1. Part 705 is revised as follows:

PART 705—PUBLICIZING CONTRACT ACTIONS

Sec.

705.002 Policy.

Subpart 705.2—Synopsis of Proposed Contract Actions

705.202 Exceptions.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381) as amended; E.O. 12163, September 29, 1979, 44 FR 56673; 3 CFR 1979, Comp., p. 435.

705.002 Policy.

AID's Office of Small and Disadvantaged Business Utilization maintains a Contractor's Index, which serves as a reference source and an indication of a prospective contractor's interest in performing AID contracts. Prospective contractors are invited to file the appropriate form (Standard Forms 254/255, Architect-Engineer and Related Services Questionnaire; or AID Forms 1420-50A, Consulting Organization Registration Form; or 1420-50B, Individual Consultant Registration Form) with AID's Office of Small and Disadvantaged Business Utilization (Department of State, Agency for International Development, Washington, D.C. 20523—Attention: Office of Small and Disadvantaged Business Utilization). These forms should be updated annually.

Subpart 705.2—Synopsis of Proposed Contract Actions

705.202 Exceptions.

(b) The head of the Agency for International Development has determined in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable for contract actions described in 706.302-70.

PART 706—COMPETITION REQUIREMENTS

2. The general authority citation for Part 706 is unchanged, and continues to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, September 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., P. 435.

3. A new section 706.302-70 is added as follows:

Subpart 706.3—Other Than Full and Open Competition

706.302-70 Impairment of foreign aid programs.

(a) *Authority.* (1) Citation: 40 U.S.C. 474.

(2) Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.

(b) *Application.* This authority may be used for:

(1) An award under section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, involving a personal services contractor serving abroad;

(2) An award of $100,000 or less by an overseas contracting activity;

(3)(i) An award for which the Assistant Administrator responsible for the project or program makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program; or

(ii) Awards for countries, regions, projects, or programs for which the Administrator of AID makes a formal written determination, with supporting

findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program.

(c) *Limitations.* (1) Offers shall be requested from as many potential offerors as is practicable under the circumstances.

(2) The contract file must include appropriate explanation and support justifying the award without full and open competition, as provided in FAR 6.303, except that determinations made under 706.302-70(b)(3) will not be subject to the requirement for contracting officer certification or to approvals in accord with FAR 6.304.

Dated: October 2, 1985.

John F. Owens,

AID Procurement Executive.

[FR Doc. 85-23933 Filed 10-7-85; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 604

[Docket No. 50957-5157]

OMB Control Numbers for NOAA Information Collection Requirements

AGENCY: National Marine Fisheries Services (NMFS), NOAA, Commerce.

ACTION: Final rule; notice of OMB Control Numbers.

SUMMARY: The National Oceanic and Atmospheric Administration is codifying the control numbers that have been issued by the Office of Management and Budget (OMB) for information collection requirements in Administration rules that are approved under the Paperwork Reduction Act. Control numbers will no longer appear as part of the section or part containing the information collection requirement, but will be centrally located in a table in new Part 604.

EFFECTIVE DATE: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: William B. Jackson, Fees, Permits, and Regulations Division, National Marine Fisheries Service, 3300 Whitehaven, NW, Washington, DC 20235, 202-634-7432.

SUPPLEMENTARY INFORMATION: On March 31, 1983, OMB published final regulations under the Paperwork Reduction Act of 1980 (48 FR 13689). Sections 1320.12, 1320.13, and 1320.14 of those regulations require that agencies display control numbers assigned by OMB to certain of the agency's regulations that solicit or obtain information from ten or more members of the public. These regulations set forth these control numbers in tabular form.

Classification

The NOAA Administrator had determined that this regulation is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

Because this regulation relates merely to an agency procedure for carrying out the requirement that OMB control numbers be displayed, the notice and public comment requirements of 5 U.S.C. 553 do not apply. Accordingly, this regulation is not subject to the Regulatory Flexibility Act.

List Of Subjects in 50 CFR Part 604

OMB control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

Dated: October 2, 1985.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR is amended by adding a new Part 604 as follows:

A new Part 604 is added to read as follows:

PART 604—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

§ 604.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This part collects and displays control numbers assigned to information collection requirements of the National Marine Fisheries Service by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act (PRA) of 1980. This Part fulfills the requirements of Section 3507(f) of the PRA, which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement.

(b) *Display.*

50 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648—)
§ 611.3	-0089
§ 611.4	-0075
§ 611.50	-0075
§ 611.61	-0075
§ 611.70(j)(9)	-0075
§ 611.80	-0075
§ 611.81	-0075
§ 611.82	-0075
§ 611.90	-0075
§ 611.92	-0075
§ 611.94	-0075
§ 630.4	-0149
§ 638.4(g)	-0097
§ 638.4(h)	-0136
§ 641.4	-0097
§ 642.4	-0097
§ 650.4	-0097
§ 651.4	-0097
§ 651.22	-0016
§ 652.4	-0097
§ 652.5(a)(2) (iii) and (iv)	-0114
§ 652.5 remaining paragraphs of (a)	-0013
§ 652.5(b)(5)	-0016
§ 654.4(b)	-0097
§ 654.5(a)	-0016
§ 654.5(b)	-0013
§ 655.4(b)(2)	-0097
§ 655.22(e)(2)	-0114
§ 658.5	-0013
§ 663.4	-0114
§ 663.10	-0097
§ 669.6	-0097
§ 671.4 (a) through (d)	-0016
§ 671.4(e)	-0114
§ 672.4	-0097
§ 672.5(a)(2)(ii)	-0016
§ 672.5(b)(4) and (c)(4)	-0114
§ 674.4	-0097
§ 674.5	-0016
§ 675.4	-0097
§ 675.5(a)	-0016
§ 675.5(b)	-0114
§ 680.4	-0097
§ 680.5	-0016
§ 681.4	-0097
§ 681.5(a)	-0016
§ 681.5(c)	-0013

[1] Pending.

[FR Doc. 85-23979 Filed 10-7-85; 8:45 am]

BILLING CODE 3710-22-M

50 CFR Parts 611 and 675

[Docket No. 40146-4171]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment and request for public comment.

SUMMARY: NOAA apportions additional amounts of yellowfin sole to the joint-venture fisheries as provided for by the fishery management plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. This action is necessary to transfer that amount of fish from the reserves to the joint ventures and is intended to assure optimum use of these groundfish.

EFFECTIVE DATE: October 4, 1985. Public comment will be accepted for 15 days after the effective date.

ADDRESS: Send comments to Bill Robinson, Alaska Region, NMFS, P.O. Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Bill Robinson, NMFS, Alaska Region, 907–586–7229.

SUPPLEMENTARY INFORMATION:

Background

The total allowable catches (TACs) for various groundfish species are established under the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and implemented by rules appearing at § 611.93 and Part 675. The TACS are apportioned initially among DAH, reserves, and TALFF. Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under §§ 611.93(b) and 675.20(b). In addition, surplus amounts of both components of DAH [DAP (domestic annual processed fish) and JVP (joint venture processed fish)] may be apportioned to TALFF during the fishing year under those same regulations.

As soon as practicable after April 1, June 1, and August 1, or on other dates as are determined appropriate, the Secretary of Commerce (Secretary) apportions to DAH all of part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, and apportions to TALFF the remaining portion of the reserve. When the initial DAH and TALFF for 1985 were established (50 FR 11369, March 21, 1985), DAH and TALFF were supplemented with 31,890 mt from the initial 300,000 mt reserve, thereby reducing the reserve to 268,110 mt. The April inseason adjustment (50 FR 19946, May 13, 1985) supplemented DAH and TALFF by an additional 134,055 mt from the reserve, reducing the reserve to 134,055 mt. The June inseason adjustment (50 FR 26213, June 25, 1985) supplemented DAH and TALFF by an additional 111,035 mt from the reserve, reducing the reserve to 23,020 mt. The August inseason adjustment (50 FR 35825, September 4, 1985) supplemented TALFF by an additional 6,440 mt from the reserve, reducing the reserve to 16,580 mt. This action supplements JVP by taking 14,735 mt from the reserve, and adding it to the JVP allocation of yellowfin sole, leaving the reserve now at 1,845 mt. The changes to the JVP specification for yellowfin sole and the JVP and RES specifications for total groundfish are summarized in Table 1.

Apportionments to DAH

Seven joint venture companies employing over forty U.S. vessels targeted on yellowfin sole and other flounders this summer and have caught the current yellowfin sole JVP of 99,218 mt. To allow this fishery to continue, the 14,735 mt of the reserve is transferred to the yellowfin sole JVP.

With this transfer, the total allocation of yellowfin sole (DAP+JVP+TALFF) comes to 241,635 mt—an amount exceeding the initial TAC level for yellowfin sole. The FMP allows harvests above the TAC when (a) the overage is consistent with the biological condition of the groundfish stock (s) and (b) the socioeconomic considerations are consistent with the FMP. As we noted in our April 1985 adjustments (50 FR 19946), the yellowfin sole stock in the Bering Sea is in excellent condition and could withstand a harvest as high as 310,000 mt and still remain at that condition (equilibrium yield (EY) level=310,000 mt). Thus, a TAC of 241,635 mt is well within an allowable level of harvest. Making this additional yellowfin sole available allows for the achievement of the optimum socioeconomic benefits from the Bering Sea groundfish stocks (a goal of the FMP) and avoids an interruption of the fishery.

As required by § 675.20(b)(1), the Secretary has found that this 14,735 mt of the reserve transferred to the DAP yellowfin sole category will be harvested by U.S. vessels during the remainder of 1985.

Comments and Responses

The Secretary has determined that good cause exists that this notice of apportionment be issued without providing interested persons a prior opportunity for public comment. Closure of the fishery during the comment period would result in severe logistical problems for both U.S. and foreign vessels, and it would force the fishery into a period of worsening weather conditions. Therefore, comments will be received for a period of 15 days after its effective date and any responses will be published in the **Federal Register** as soon as practicable and will be considered by the Secretary in deciding whether to modify this notice.

Classification

This action is taken under 50 CFR 611.93(b) and § 675.20(b), and complies with Executive Order 12291.

In view of the need to avoid disruption of U.S. fisheries and to afford U.S. vessels a reasonable opportunity to achieve OY, the Agency has determined that delaying the effective date of this notice would be impracticable, unnecessary, and contrary to the public interest.

List of Subjects in 50 CFR Parts 611 and 675

Fisheries.

(16 U.S.C. 1801 et seq.)

Dated: October 2, 1985.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

TABLE 1.—BERING SEA-ALEUTIANS REAPPORTIONMENTS OF TOTAL ALLOWABLE CATCH (TAC)

Species	Figure	Current	This action	Revised
Yellowfin sole	DAP	1,770		1,770
TAC=226,900	JVP	99,218	+14,735	113,953
EY=310,000	TALFF	125,912		125,912
Total	DAP	141,710		141,710
TAC=2,000,000	JVP	683,115	+14,735	697,850
	RES	16,580	−14,735	1,845
	TALFF	1,158,595		1,158,595

[FR Doc. 85–23980 Filed 10–4–85; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 50, No. 195
Tuesday, October 8, 1985

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing to amend the regulations that govern the establishment of Federal Wage System (FWS) schedules in wage areas that have a dominant Federal specialized industry. The change would limit the use of private sector specialized industry data obtained outside a wage area in combining that data with locality survey data to compute a wage schedule. The current regulations allow the use of such large amounts of outside survey data that, in some instances, the wage schedules frequently have little or no relationship to local prevailing rates. The new regulations would establish wage schedules that are closer to local prevailing rates, which is the fundamental pay setting principle of the Federal Wage System, while at the same time, meet the statutory requirements relating to specialized positions.

DATE: Comments must be submitted on or before December 9, 1985.

ADDRESS: Send or deliver written comments to Reginald M. Jones, Jr., Acting Assistant Director for Pay Programs, Compensation Group, Office of Personnel Management, Room 3533, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Allan Summers, (202) 632-7830.

SUPPLEMENTARY INFORMATION: The FWS law (Pub. L. 92-392), now codified in subchapter IV of Chapter 53, title 5, U.S. Code, enacted the longstanding policies and principles of the Coordinated Federal Wage System, which had been established by Presidential memorandum. Fundamental to both the FWS and its predecessor is the principle that rates of pay for Federal trades, crafts, and labor occupations be set according to local prevailing rates. Section 5343(d)(2) provides for an exception to the prevailing rate principle. The exception applies when there are an insufficient number of positions in the local private industry that are comparable to the principle types of positions for which the survey is made. If the data are insufficient, the wage schedule for the area is established on the basis of local prevailing rates *and* the rates paid for comparable positions in private industry in the nearest similar wage area.

The current regulations in 5 CFR 532.313(a) limit the quantity of job matches from the nearest similar wage area to no more than the quantity of job matches obtained in the local wage area. This means that up to half of the wage data used in computing local wage schedules in the Monroney areas may be from outside the local wage area. The proposed change to the regulations would limit the quantity of job matches from the nearest similar area to the amount required by the adequacy criteria, prescribed in 5 CFR 532.309, which is used to determine if there are sufficient specialized industry data within a local wage area. The exact adequacy criteria of local sufficiency of data, which have been unchanged since 1971, are as follows:

APPROPRIATED FUND SURVEYS

No. and category of jobs	Grades of jobs	Unweighted samples
1 regular	WG-01—04	20
1 regular	WG-05—08	20
1 regular	WG-09—15	20
1 regular	WG-09—15 [1]	20
3 regular or special	WG-01—15	3 @ 10
Total		110

[1] For the ammunition specialized industry only, the 20 special job samples must be at grades WG-05—08.

NONAPPROPRIATED FUND SURVEYS

Number and category of jobs	Grades of jobs	Unweighted samples
1 Regular	NA-01—04	10
1 Regular	NA-05—15	5
1 Regular	NA-01—15	5
Total		20

Under the proposal, data from a reference area will be selected on the basis of the most populous survey jobs as determined by the weighted job matches found in the dominant industry in the selected reference area. In selecting survey jobs, the jobs required at limited grade ranges (e.g., WG-1—4) will be selected before jobs in the unlimited grade range (e.g., WG-1—15). The highest graded job will be selected first when there is a tie in the selection procedures.

The proposed regulatory change will provide for a more reasonable balance between the principle of setting pay on the basis of local prevailing rates and the unique provisions of section 5343(d)(2) of title 5. The sufficiency standard in 5 CFR 532.309 provides the minimum amount of data needed in the reference area to adequately reflect the specialized industry in the reference area.

To implement this change in a timely manner, OPM proposes that the new procedures be effective with the normal full-scale surveys ordered on or after January 1, 1988.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they are changes which will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 532

Administrative practices and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

PART 532—PREVAILING RATE SYSTEMS

Accordingly, OPM is proposing to amend 5 CFR Part 532 as follows:

1. The authority citation for Part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346.

2. In § 532.313 paragraphs (a)(2) and (a)(3) are revised and paragraph (a)(4) is added to read as follows:

§ 532.313 Use of data from the nearest similar area.

(a) * * *

(2) The total number of job matches obtained from the nearest similar wage area shall not exceed the amount of data required for adequacy in § 532.309(a) (2) and (3) of this subpart for appropriate fund surveys and § 532.309(b)(2) of this subpart for nonappropriated fund surveys.

(3) Data shall be selected for inclusion on the basis of the most populous survey jobs as determined by the weighted job matches found in the dominant industry in the selected reference area. In identifying survey jobs for which reference area samples will be included, the jobs required at limited grade ranges shall be selected before jobs in the unlimited grade range. When there is a tie in the selection procedure, the highest graded job shall be selected first.

(4) If there are two dominant industries for which data are obtained from nearest similar areas, the procedure described in paragraph (a)(2) of this section shall be applied independently for each of the specialized industries.

* * * * *

[FR Doc. 85-24060 Filed 10-7-85; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 701

Conservation and Environmental Programs; Definition of Eligible Person for Maximum Payment Limitation Purposes

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the Agricultural Stabilization and Conservation Service (ASCS) regulations found at 7 CFR 701.73 which set forth the procedures used by ASCS to define an eligible person for maximum payment limitation purposes under the related Conservation and Environmental Programs contained in 7 CFR Part 701. The adoption of this regulation would provide a common procedure applicable to all programs administered by ASCS for determining eligible persons for maximum payment limitation purposes.

DATE: Comments must be received on or before December 9, 1985, in order to be assured of consideration.

ADDRESSES: Interested persons are invited to sumbit written comments to: Director, Conservation and Environmental Protection Division, ASCS, P.O. Box 2415, Washington, D.C. 20013, telephone 202-477-6221.

FOR FURTHER INFORMATION CONTACT: Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, telephone 202-117-6221.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 701) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560-0112.

This proposed rule has been reviewed for compliance with Executive Order 12291 and Department Regulation No. 1521-1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competiton, 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 titles and numbers of the Federal Assistance Program to which this rule applies are: Title—Agricultural Conservation Program; Number—10.063; Title—Emergency Conservation Program (ECP), Number—10-054; Title—Forestry Incentives Program (FIP), Number—10.064; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice or proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consulting with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 F.R. 29115 (June 24, 1983).

The Agricultural Conservation Program (ACP) is authorized generally by sections 7-17 of the Soil Conservation and Domestic Allotment Act of 1936, as amended (16 U.S.C. 590g *et seq.*) The program provides financial incentives and technical assistance to encourage agricultural producers voluntarily to perform enduring soil and water conservation and pollution abatement measures, including practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased costs of production.

The Emergency Conservation Program (ECP) is authorized by the Agricultural Credit Act of 1978 (16 U.S.C. *et seq.*) This program is designed to provide cost-share assistance for emergency work to deal with cases of severe damage to farms and ranchlands caused by severe drought or other natural disaster.

The Forestry Incentives Program (FIP) is authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) and is designed to increase the Nation's supply of timber products from private nonindustrial forest lands. The purpose of FIP is to encourage private landowners to apply forestry practices that will provide for afforestation of suitable open lands and reforestation of cut-over or other nonstocked forest lands and to encourage intensive multipurpose forest resource management and protection so as to provide for cost-effective timber production and other related forest resources needs.

Current regulations found at 7 CFR 701.73 set forth the criteria used by ASCS to make determinations of "eligible persons" for maximum payment limitation purposes under the related Conservation and Environmental Programs contained in 7 CFR Part 701. In addition, the provisions of 7 CFR Part 795 are used by the agency to make determinations of "eligible persons" for maximum payment limitation purposes for certain commodity payment programs which are administered by ASCS. In general, the current regulations at 7 CFR 701.73 governing the related Conservation and Environmental Programs treat spouses, family groups, and various entities and ownership interests and their consitituent individuals and owners-partnerships

and their members, corporations and their shareholders, trustees and beneficiaries, the administrator and heirs of an estate, joint tenants, tenants in common, joint venturers—as a single "person" for payment limitation purposes, subject to an exception applicable to each such arrangement. Under this exception, two individuals or entities may be treated as separate "persons" for maximum payment limitation purposes if: (i) The interest of each individual or other entity in the farm and income is separate and distinct from the interest therein of the other individual or entity; (ii) the individuals or entities exercise separate responsibility for management of their respective interest; and (iii) each individual or entity contributes, from a separate fund or account, to the cost of performing practices.

The payment limitation regulations found at 7 CFR Part 795, which are applicable to the commodity payment programs, provide specific rules relating to each of such entities, while containing general requirements requisite to the treatment of the various individuals and entities that are substantially equivalent to the "exceptions" contained n § 701.73; however, in some cases eligibility would be restricted by adoption of the 7 CFR Part 795 regulations. ASCS believes that the regulations at 7 CFR Part 795, with their greater detail and examples, are better suited to the commercial agricultural world. Further, the agency believes that to adopt a common procedure for making these determination would provide greater equity of treatment among applicants and would increase the administrative consistency among programs administered by ASCS. This proposed rule would amend the regulations at 7 CFR 701.73 to conform determinations of the number of "persons" for payment limitations purposes under Part 701 to those governed by 7 CFR Part 795.

Comments on the proposed rule are solicited from interested parties and will be accepted for a period of 60 days after the date of publication of this proposed rule in the **Federal Register**. Any comments that are offered during the public comment period for this amendment to the regulations will be considered in the development of the final rule.

List of Subjects in 7 CFR Part 701

Disaster assistance, Forest and forest products, Grant programs, Natural resources, Rural areas, Soil conservation, Water resources, Wildlife.

Proposed Rule

PART 701—CONSERVATION AND ENVIRONMENTAL PROGRAMS

Accordingly, it is proposed to amend 7 CFR Part 701 as follows:

1. The authority citation for Part 701 is revised to read as follows:

Authority: Pub L. 74–46, secs. 4, 7–15, 16(a), 16(f), 16A, 17, 49 Stat. 163, as amended (16 U.S.C. 590d, 590g–590o, 590p (a), 590q); Pub. L. 93–86, secs. 1001–1009, 87 Stat. 241 (16 U.S.C. 1501–1510); Pub. L. 95–313, secs. 4, 8(a), 10, 92 Stat. 365 (16 U.S.C. 1510, 1606, 2101–2111); Pub. L. 95–334, secs. 401–405, 92 Stat. 433 (16 U.S.C. 2201–2205).

2. Section 701.73 is amended by removing paragraph (c) and by revising paragraph (b) to read as follows:

§ 701.73 Applying cost-share limitations.

* * * * *

(b) The rules set forth in 7 CFR 795.3 through 795.22 shall apply in determining whether certain individuals or other entities are to be considered as separate persons for the purpose of applying any maximum payment limitations provided for in this Part. In cases where more than one rule would appear to be applicable, the rule which is most restrictive as to number of persons shall apply.

Signed at Washington, D.C., October 2, 1985.

Everett Rank,

Administrator, Agricultural Stabilzation and Conservation Service.

[FR Doc. 85–23968 Filed 10–7–85; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 958

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Proposed Amendment No. 2 to Handling Regulation.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMARY: This proposed rule would further amend continuing regulation § 958.328 be defining "pearl onions," permitting thier shipment under special purpose shipments and exempting them from grade, size, maturity, inspection and assessments, and extending the regulated period to twelve months from ten. This should improve the efficiency of the order and permit shippers to ship relatively small quantities of specialized onions that do not meet size requirements to a specialty-type market.

DATES: Comments due November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–5764.

ADDRESSES: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to regulations set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 130 and Order No. 958, both as amended, regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in June 1982 the committee recommended and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation of the committee or other information available to the Secretary.

At its public meetings on June 18 and August 21, at Ontario, Oregon, the committee recommended the continuing handling regulation be amended. The current regulation regulates from August 1 to June 1 of each season. The committee believes that by extending the regulation for all twelve months, the relatively few shipments made during June and July will be required to meet the same requirements as those made during the rest of the shipping season. This should benefit producers by ensuring a constant minimum quality level year round for production area onions.

The committee also recommended that pearl oinions be exempt from grade,

size, maturity and inspection regulations and be handled under special purpose shipments. Pearl onions are onions grown specifically to small sizes using special cultural techniques for a specialized market. By their own definition, i.e onions of the same general size as boilers and picklers, they are unable to meet the size requirements of the regulation. By recommending shipment under special purpose shipments the committe is recognizing that a limited market exists for small onions both for fresh use and planting, thus responding to industry needs.

List of Subjects in 7 CFR Part 958

Marketing agreements and orders, Onions, Idaho, Oregon.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

For the reasons given above, 7 CFR Part 958 is amended as follows:

1. The authority citation for Part 958 continues to read as follows:

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

Section 958.328 (47 FR 32912, July 30, 1982, an 49 FR 31257, August 6, 1984) is hereby proposed to be further amended by revising the first paragraph, paragraph (c), paragraph (d) and adding the definition "pearl onions" after "moderately cured" to paragraph (f), to read as follows:

§ 958.328 Handling regulations.

From the effective date hereafter, no person may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in a paragrph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c) and (d) or (e) of ths section.

* * * * *

(c) *Special purpose shipments.* The minimum grade, size, maturity, assessment and inspsection requirements of this section shall not be applicable to shipments of pearl onions or onions for any of the following purposes: (1) planting, (2) Livestock feed, (3) charity, (4) dehydration, (5) canning, (6) freezing), (7) extraction, and (8) pickling.

(d) *Safeguards.* Each handler making shipments of pearl onions or onions for dehydration, planting, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

* * * * *

(f) *Definitions.*

"Pearl onions" means onions produced using specific cultural practices that limit growth to the same general size as boilers and picklers, usually less than 1½ inches in diameter.

* * * * *

Dated: October 2, 1985.

William J. Dovle,

Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–23971 Filed 10–7–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1140

[Docket No. AO–387]

Milk in the Hawaii Marketing Area; Rescheduling of Hearing on Proposed Marketing Agreement and Order

Correction

In the issue of Monday, September 30, 1985, in the document appearing on page 39711, make the following correction: In the second column, at the end of the document, the FR document number reading "FR Doc. 85–23239" should read "FR Doc. 85–23240".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. 19176; ref. Notice 82–151]

Duration of Airman Medical Certificates

Correction

In FR Doc. 85–23103, appearing on page 39619 in the issue of Friday, September 27, 1985, the third line under the heading **Reasons for Withdrawal** in the middle column should have read "medical association expressed".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Change in the Customs Service Field Organization; Pascagoula, MS

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by extending the geographical limits of the port of entry of Pascagoula, Mississippi. The proposed change would extend the existing port limits to include all of Jackson County, Mississippi. These extended port limits, which would coincide with the jurisdiction of the Jackson County Port Authority, would encompass areas undergoing industrial development and growth thereby allowing them access to Customs services. Moreover, they would enable Customs to provide better service to carriers, importers and the public.

DATE: Comments must be received on or before December 9, 1985.

ADDRESS: Comments (preferably in triplicate) may be addressed to and inspected at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Bernie Harris, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposes to amend § 101.3, Customs Regulations (19 CFR 101.3), by extending the geographical limits of the port of entry of Pascagoula, Mississippi.

Prior to this proposal, T.D. 56333, published in the **Federal Register** on January 12, 1965 (30 FR 344), extended the geographical limits of Pascagoula, Mississippi, to include the corporate limits of Pascagoula, and that area lying eastward of the city limits to 88° 28 minutes west longitude, and south of 30° 23 minutes north latitude to the existing shoreline.

The proposed change would extend the existing port limits to include all of Jackson County, Mississippi. These extended port limits, which would coincide with the jurisdiction of the Jackson County Port Authority, would encompass areas undergoing industrial development and growth thereby allowing them access to Customs services. If the proposed change is adopted, the list of Custom regions, districts, and ports of entry in § 101.3(b), Customs Regulations, will be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any

written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

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 proposal. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the U.S. to accommodate the volume of Custom-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the Pascagoula, Mississippi, area, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of § 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because the proposed amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of E.O. 12291 this proposal is not subject to the Executive Order.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, U.S. Customs Service Headquarters. However, personnel from other Customs offices participated in its development.

Dated: September 12, 1985.

William von Raab,

Commissioner of Customs.

Approved:

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85–23997 Filed 10–7–85; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

26 CFR Parts 1 and 602

[EE–3–85; EE–35–85]

Effective Dates, Transitional Rules, Restrictions on Plan Distributions, and Other Issues Under the Retirement Equity Act of 1984 and Notice, Election, and Consent Rules Under the Retirement Equity Act of 1984; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on two proposed regulations. One of the two proposed regulations (EE–3–85) relates to the effective dates, transitional rules, restrictions on distributions from employee plans and other issues arising under the Retirement Equity Act of 1984. The other proposed regulations (EE–35–85) relate to the notice, election, and consent rules under the Retirement Equity Act of 1984.

DATES: The public hearing will be held on Monday, December 9, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Monday, November 25, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (EE–3–85 and EE–35–85), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: One of the two subjects of the public hearing is proposed regulations under sections 401(a), 410(a), 411(a), 411(d) and 417(e) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, July 19, 1985 (50 FR 29436).

The second subject of the public hearing is proposed regulations under sections 401(a) and 402(f) of the Internal Revenue Code of 1954. The proposed regulations also appeared in the **Federal Register** for Friday, July 19, 1985 (50 FR 29436).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submitted comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Monday, November 25, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

James J. McGovern,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 85–24049 Filed 10–7–85; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 435

[WH–FRL–2908–6]

Oil and Gas Extraction Point Source Category Offshore Subcategory; Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; correction.

SUMMARY: EPA is correcting several errors in the preamble and regulation for proposed effluent limitations guidelines

and standards for the offshore segment of the oil and gas extraction point source category which appeared in the Federal Register on August 26, 1985 (50 FR 34592–34636).

DATES: The comment period for the proposed rule ends on December 16, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Ruddy, Industrial Technology Division (WH–552), U.S. EPA, 401 M Street, SW., Washington, DC 20460, or call (202) 382–7131.

SUPPLEMENTARY INFORMATION: On August 26, 1985, EPA published proposed effluent limitations guidelines and new source performance standards for the offshore segment of the oil and gas extraction point source category (40 CFR Part 435; 50 FR 34592).

The published preamble and regulation contained several errors. These errors are discussed briefly below and are corrected by this notice.

Preamble

On page 34592, right column, under *Introduction*, second paragraph, the document number for the technical Development Document should read "EPA 440/1–85/055".

On page 34596, right column, fourteenth line from the bottom, "post" should read "past".

On page 34603, left column, fifteenth line from the bottom, the word "biological" was misspelled.

On page 34616, right column, first full paragraph, the next to last line, the word "unprofitable" was misspelled. Next paragraph, first line, the word "facilities" was misspelled.

On page 34624, middle column, Appendix D, in item 1. under *Technology and Cost Reports*, the document number should read "EPA 440/1–85/055".

Proposed Regulation

On page 34627, center column, in the table titled *NSPS Effluent Limitations*, under deck drainage, the parenthetical should read "[All other pollutant parameters reserved]".

On page 34628, center column, under item 3.1.4, "vetort" should read "retort". Same page, right column, under item 4.2.4, "through" should read "thorough". Same page, right column, under item 4.2.7(e), "seed" should read "speed".

On page 34629, left column, under item 6.1, the formula should read:

$$\frac{\Sigma Aps}{Ais} = RFs$$

On page 34629, right column, under item 7.3, the formula should read:

$$RPD = \frac{(D_1 - D_2) \times 100}{(D_1 + D_2)/2}$$

On page 34631, left column, in item I–C(1), insert as the third sentence "Any screen wash water shall be shut off during sample collection." Same page, center column, fourth line from the bottom, the work "filtered" was misspelled. Same page, right column, under item II.C(1), first paragraph, line 14, insert "by" after "added".

On page 34632, right column, under item V–A(1), seventh line, "text" should read "test". Same page and column, under item V–A(2), "Task 3" should read "Task 4".

On page 34635, left column, last line, "BAT" should read "BAT/NSPS". Same page, right column, Appendix 4, item (C), insert before item (2):

1. Southern California

Bounded on the north by approximately 34° 30' N. latitude and on the south by the U.S.-Mexico provisional boundary.

Dated: September 30, 1985.

Edwin L. Johnson,

Acting Assistant Administrator for Water.

[FR Doc. 85–23985 Filed 10–7–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 27 and 52

Federal Acquisition Regulation (FAR); Validation of Restrictive Markings on Technical Data

Correction

In FR Doc. 85–23581 beginning on page 40416 in the issue of Thursday, October 3, 1985, make the following corrections:

1. On page 40417, in 27.409–1(a), in the 28th line of the second column, "of any" should read "at any".

2. On page 40417, in the third column, in 27.409–1 (b)(3), in the fifth line, "possession or" should read "possession of or".

3. In the same paragraph, the 20th line should read: "period as may be authorized in writing by the contracting officer. If the contractor or subcontractor fails to".

4. On page 40418, in the first column, in 27.409–1 (c)(4), in the fourth line, "contract or" should read "contractor".

5. In the same paragraph, the 19th line should read: "schedule for responding to each of the challenge notices, and distribute such schedule to all interested parties. The".

6. On the same page, in the third column, in 27.409–1(d)(2)(ii)(D)(*1*), in the second line, "filed" should read "failed".

7. On the same page, in the same column, in 27.409–1(e)(1), in the 14th line, "Government is" should read "Government in".

8. On page 40419, in the first column, in 27.410(t), in the 14th line, "a amended" should read "as amended".

9. On page 40420, in the second column, in the first line, "open" should read "file".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub–No. 8)]

Exemption From Regulation—Boxcar Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing reply comments to notice of reopening of final rules.

SUMMARY: At 50 FR 23741, June 5, 1985, the Commission reopened this proceedings to consider further whether regulation of boxcar joint rates is necessary under the criteria of 49 U.S.C. 10505. A 60-day extension of time was required by the American Short Line Railroad Association, Itel Rail Corporation, and BRAE Corporation, to enable them to complete the preparation of responses to voluminous initial comments. Atchison, Topeka and Santa Fe Railway Company, et al., also believe an extension is warranted, of at least 30 days. A 30-day extension of time is granted to file reply comments and evidence in this reopened proceeding, concerning exemption of boxcar joint rates from regulation.

DATES: Reply evidence and comments are due November 8, 1985.

ADDRESS: An original and 15 copies of reply comments referring to Ex Parte No. 346 (Sub-No. 8), should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

Replies must also be served on all parties of record in Ex Parte No. 346 (Sub-No. 8).

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

Decided: October 1, 1985.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Secretary.

[FR Doc. 85-24029 Filed 10-7-85; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1312

[Ex Parte No. MC-175]

International Joint Through Rates Involving Ocean Carriers—Revision of Tariff Filing Requirements

Correction

In FR Doc. 85-12691, beginning on page 21636 in the issue of Tuesday, May 28, 1985, make the following correction:

On page 21637, in the first line, the section number should read "Section 1312. 37(d)(1)".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 50, No. 195
Tuesday, October 8, 1985

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes, Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92-463), notice is hereby given of two meetings of the Committee on Governmental Processes of the Administrative Conference of the United States, that will be held at Covington and Burling, 1201 Pennsylvania Avenue NW., 11th floor, Washington, D.C. The meetings will be on Friday, October 18, at 1:30 p.m., and on Friday, November 8, at 9:30 a.m.

At the October 18 meeting, the committee will discuss Professor Henry Perritt's report on agency experience with regulatory negotiation. At the November 8 meeting, the Committee will discuss Professor Sidney Shapiro's report on the Food and Drug Administration's Public Board of Inquiry procedure, and will continue its consideration of regulatory negotiation.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202-254-7065.) Minutes of the meetings will be available on request.

Jeffrey S. Lubbers,
Research Director.
October 3, 1985.
[FR Doc. 85-23987 Filed 10-7-85; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Montana; Gallatin National Forest; Hearing

AGENCY: Forest Service, USDA.

ACTION: Public hearing notice: Public hearings will be held as follows:

December 17, 1985—Bozeman, Montana, Holiday Inn, 5 Baxter Lane, from 2-5 p.m. and starting again at 7 p.m.

December 18, 1985—Livingston, Montana, City County Complex, 414 East Callendar, from 2-5 p.m. and starting again at 7 p.m.

SUMMARY: Public hearings will be held concerning the Hyalite-Porcupine-Buffalo Horn Wilderness Study area as mandated by the Montana Wilderness Study Act (Pub. L. 95-150). Comments received at these public hearings will be considered in addition with those received on the Gallatin National Forest's draft Forest Plan and Draft Environmental Impact Statement in determining a final recommendation to Congress for this wilderness study area.

Hearings will be held in two western Montana cities in December of 1985.

ADDRESS: Request for further information should be addressed to: Forest Supervisor, Gallatin National Forest, P.O. Box 130, Bozeman, MT 59715.

Roger C. Thomas,
Acting Regional Forester.
[FR Doc. 85-24036 Filed 10-7-85; 8:45 am]
BILLING CODE 3410-11-M

Montana; Kootenai National Forest Plan Draft Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Extension of public review period for the Kootenai National Forest Plan Draft Environmental Impact Statement.

SUMMARY: The period of public review for the Kootenai National Forest Draft Environmental Impact Statement has been extended until November 1, 1985.

ADDRESSES: Requests for further information should be addressed to: Add address of Forest.

Roger C. Thomas,
Acting Regional Forester.
[FR Doc. 85-24037 Filed 10-7-85; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Cason Branch-Duhart Creek Watershed, GA; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cason Branch-Duhart Creek Watershed, Jefferson and Glascock Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: B.C. Graham, State Conservationist, Soil Conservation Service, Federal Building, Box 13, 355 East Hancock Avenue, Athens, Georgia 30601; telephone: 404-546-2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, B.C. Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns are rill, sheet, and gully erosion affecting cropland. The planned works of improvements include cost sharing and accelerated technical assistance to increase the application of land treatment measures such as stripcropping, terraces, grassed

waterways, water and sediment control basins, diversions, contouring, and conservation cropping systems.

The Finding of No Significant Impact (FONSI) and a copy of the Environmental Assessment have been forwarded to the Environmental Protection Agency, Federal, State, and local agencies, and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. B.C. Graham. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: September 30, 1985.

B.C. Graham,

State Conservationist.

[FR Doc. 85-24035 Filed 10-7-85; 8:45 am]

BILLING CODE 3410-16-M

Watershed Projects; Deauthorization of Funds; Wilson-Spring Creek Watershed, TN

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Deauthorize Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Wilson-Spring Watershed Project, Wilson County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, telephone (615) 251-5471.

SUPPLEMENTARY INFORMATION: A determination has been made by Donald C. Bivens that the proposed works of improvement for the Wilson-Spring Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Donald C. Bivens, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: September 30, 1985.

Donald C. Bivens,

State Conservationist.

[FR Doc. 85-23963 Filed 10-7-85; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Florida Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 5:00 p.m. on November 1, 1985, at the Sheraton River House, 3900 NW. 21st Street, the Picasso Room, Miami, Florida. The purpose of the meeting is to discuss and review the draft memorandum the community forum on immigration and to plan for other community forums in five Florida cities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Paul Porter, or Bobby Doctor, Director of the Southern Regional Office at (404) 221-4391, (TDD 404/221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 3, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-23964 Filed 10-7-85; 8:45 am]

BILLING CODE 6335-01-M

Idaho Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Idaho Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on October 25, 1985, at the Lewiston Community Center, 1424 Main Street, the Multipurpose Room, Lewiston, Idaho. The purpose of the meeting is to conduct a community forum on American Indian and Alaska Native education issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Michael Orme, or Susan McDuffie, Director of the Northwestern Regional Office at (206) 442-1246, (TDD 206/442-4744).

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 2, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-23965 Filed 10-7-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

National Voluntary Laboratory Accreditation Program; Construction Testing Services

AGENCY: National Bureau of Standards, Commerce.

ACTION: Request for comments on need for establishing a laboratory accreditation program.

SUMMARY: The National Bureau of Standards (NBS) has received a request to establish a laboratory accreditation program (LAP) under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7). In a letter dated September 23, 1985, STS Consultants, Ltd., Vienna, Virginia, requested that NBS establish a LAP for construction testing services. A copy of the request letter is set out as an appendix to this notice. Annoucement of this request by STS Consultants and of the NBS request for comments with respect thereto are being made under § 7.11(d) of the referenced procedures.

ADDRESS: Persons desiring to comment on the need for such a LAP are invited to submit their comments in writing on or before December 9, 1985, to the Director, Office of Product Standards Policy, National Bureau of Standards, ADMIN A 603, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Peter Unger, Associate Manager, or Robert Gladhill, Project Leader, Laboratory Accreditation, National Bureau of Standards, ADMIN A 531,

Gaithersburg, MD 20899; phone (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Scope of LAP

NVLAP currently has a laboratory accreditation program (LAP) to accredit laboratories that test freshly mixed field concrete (Concrete LAP). In its request letter, STS Consultants, Ltd. requests that the Concrete LAP be merged into a more broadly defined Construction Testing Services LAP. The requested LAP would include, but not be limited to, test methods for concrete, soils, asphalt, and geotextiles. The requestor identified over 30 ASTM standard test methods for inclusion under the LAP. Other test methods could be added in response to written requests.

Expected Fees of the LAP

Based on its experience with other LAP, NBS estimates that the annual fee (excluding the one-time enrollment charge of $650) will range from approximately $1,500 for one testing area of accreditation to $3,000 for all four areas mentioned above. Final determination of the fees depends upon the ultimate scope of the LAP and the technical requirements established for accreditation.

Procedure Following Receipt of Comments

After the 60 day comment period, NBS will thoroughly evaluate all comments pertaining to the proposed LAP and will notify all interested persons (those who submit comments or request to be placed on the NVLAP mailing list) of the decision, by the Director of NBS, regarding development of this LAP. If the decision is made to develop the LAP, technical assistance will be sought from all interested parties to develop the technical requirements for assessing applicants and establishing appropriate proficiency testing programs.

Documents in Public Record

All comments in response to this notice will be made part of the public record and will be available for inspection and copying at the NBS Records Inspection Facility, Administration Building, Room E106, Gaithersburg, Maryland.

Dated: October 2, 1985.

Ernest Ambler,

Director, National Bureau of Standards.

Appendix

Robert L. Gladhill,
Project Leader, Laboratory Accreditation, United States Department of Commerce, National Bureau of Standards, Gaithersburg, Maryland 20899

Mr. Gladhill: Please consider this a formal request for the establishment of an expanded LAP under the National Voluntary Accreditation Program. Given the significance of the existing LAP for concrete, it follows that similar measures to assure quality control in testing other construction-related materials are essential if uniformity of high standards is to be achieved.

We propose that the current LAP for concrete be merged into a broader LAP under the designation "Construction Testing Services." This program should include, but not be limited to, subheadings for concrete, soils, asphalt, and geotextiles. Accreditation could be sought in accordance with the capabilities of each participating laboratory. In this context, some or all of the following test standards might apply:

ASTM D1140 "Amount of Material in Soils Finer Than the No. 200 Sieve"
ASTM D1183 "Bearing Ratio of Laboratory-Compacted Soils"
ASTM D2487 "Classification of Soils for Engineering Purposes"
ASTM D2166 "Compressive Strength, Unconfined, of Cohesive Soil"
ASTM D2922 "Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)"
ASTM D1556 "Density of Soil in Place by the Sand-Cone Method"
ASTM D4221 "Dispersive Characteristics of Clay Soil by Double Hydrometer"
ASTM D4318 "Liquid Limit, Plastic Limit, and Plasticity Index of Soils"
ASTM D4253 "Maximum Index Density of Soils Using a Vibratory Table"
ASTM D4254 "Minimum Index Density of Soils and Calculation of Relative Density"
ASTM D3017 "Moisture Content of Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)"
ASTM D698 "Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 5.5-lb (2.49kg) Rammer and 12 inch (305-mm) Drop"
ASTM D1557 "Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 10-lb (4.54-kg) Rammer and 18 inch (457-mm) Drop"
ASTM D1558 "Moisture Content Penetration Resistance Relationships of Fine-Grained Soils"
ASTM D2435 "One-Dimensional Consolidation Properties of Soils"
ASTM D2434 "Permeability of Granular Soils (Constant Head)"
ASTM D427 "Shrinkage Factors of Soils"
ASTM D854 "Specific Gravity of Soils"
ASTM D2850 "Unconsolidated, Undrained Compressive Strength of Cohesive Soils in Traxial Compression"
ASTM D2168 "Calibration of Laboratory Mechanical-Rammer Soil Compactors"
ASTM D3080 "Direct Shear Test of Soils Under Consolidated Drained Conditions"
ASTM D422 "Particle Size Analysis of Soils"
ASTM D2216 "Determination of Water (Moisture) Content of Soil, Rock, and Soil-Aggregate Mixtures"
ASTM D221 "Wet Preparation of soil Samples for Particle-Size Analysis and Determination of Soil Constants"
ASTM D2488 "Description and Identification of Soils (Visual-Manual Procedure)"
ASTM D220 "Preserving and Transporting Soil Samples"
ASTM D2974 "Moisture, Ash, and Organic Matter of Peat Materials"
ASTM D4354 "Sampling of Geotextiles for Testing"
ASTM D1074 "Compressive Strength of Bituminous Mixtures"
ASTM D2950 "Density of Bituminous Concrete in Place by Nuclear Method"
ASTM D140 "Sampling Bituminous Materials"

This list is presented in addition to the standards currently applied in the concrete LAP.

Many engineering decisions are made, in whole or part, on the basis of laboratory test data. In some instances, the suitability of materials is determined solely through minimum requirements met in laboratory and field tests. Inadequate testing procedures and equipment may therefore result in erroneous decisions, costly obstruction of work, and the erosion of design safety factors. The public is entitled to the assurance that roadways, residential, commercial, and public buildings are constructed in a safe and durable manner. Quality assurance in testing may reduce the risk of safety deficiencies and save costs in the long run, as unnecessary expenditures for remedial work might be avoided with adequate testing. This would benefit both owners of private development projects and taxpayers, in the case of Government projects. Insurance companies might also benefit with a reduction in liability claims. The establishment of testing standards by knowledgeable professionals, through such organizations as ASTM and AASHTO, is evidence of the need for precise equipment, consistent procedures, and trained personnel. We feel that a nationally recognized, third party accreditation to verify compliance with these guidelines is of equal importance. We are not aware of any such program within the Federal Government, with this scope, in the construction services area. The NVLAP program can provide a highly credible program for this expanded LAP backed by the expertise of the National Bureau of Standards.

The number of laboratories thoughout the United States that would fall within the context of the "Construction Testing Services" LAP is in the thousands. We feel that the recognition bestowed through accreditation by a nationally acknowledged program of this caliber would be considered desirable by a great many of these laboratories. An estimate of the number of users of these labs would also be high. With increased sophistication in architectural and engineering design, emphasis on liability loss prevention through quality control, and strict enforcement of state and local building standards, clients such as developers and manufacturers of building products are more likely to seek the services of accredited laboratories.

In an effort to follow through with our request, we would like to offer our services in developing this program in both a logistical

and technical capacity. We hope you will contact us in the event that further imput is needed.

Sincerely,

STS Consultants, Ltd.

Charles L. Hargest,

Laboratory Manager.

[FR Doc. 85-23939 Filed 10-7-85; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraints Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

October 3, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March, 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 9, 1985. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Backgound

The bilateral agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan, provides, among other things, for percentage increases in certain categories during the agreement year for swing and/or shift, provided corresponding reductions in equivalent square yards are made in the specific limits or sublimits during the same agreement year. Pursuant to the terms of the agreement, as amended, the import restraint limits established for Categories 313, 314, 315, 317, 320, 331, 333/334, 335, 336, 337, 338/339, 340, 341, 342, 345, 347/348, 350, 351, 433, 434, 444, 445/446, 447, 604, 605pt. (thread in T.S.U.S.A. number 310.9140), 612, 613, 633/634/635, 636, 637, 638, 639, 640, 641, 644, 647, 648, 650, 652, 659pt. (hats in T.S.U.S.A. numbers 703.0510, 703.0520, 703.0530, 703.0540, 703.0550, 703.0560, and 703.1000), 659pt. (infants' sets in T.S.U.S.A. numbers 383.2059, 383.2060, 383.2061, 383.2062, 383.2346, 383.2347, 383.2348, 383.2349, 383.2352, 383.8651, 383.8652, 383.8653, 383.8654, 383.9256, 383.9257, 383.9258, and 383.9259), 669pt. (polypropylene bags in T.S.U.S.A. number 385.5300), 670pt. (luggage in T.S.U.S.A. numbers 706.4144 and 706.4152 and 706.3420) are being increased for goods exported during the twelve month period which began on January 1, 1985 and extends through December 31, 1985. The limits for Categories 319, 353/354/653/654, 659pt. (bodysuits in T.S.U.S.A. numbers 383.1815 and 383.8022), 659pt. (caps in T.S.U.S.A. numbers 703.1610, 703.1620, 703.1630, 703.1640, and 703.1650), 659pt. (swimwear in T.S.U.S.A. numbers 379.2340, 379.3170, 379.9100, 379.9570, 383.1920, 383.2239, 383.8300, 383.8400, and 383.9253), 669pt. (fishnets in T.S.U.S.A. numbers 355.4520 and 355.4530) 669pt. (tents in T.S.U.S.A. numbers 386.1105 and 389.6210, 670pt. (flat goods in T.S.U.S.A. number 706.3900), and 670pt. (handbags in T.S.U.S.A. number 706.4140), are being reduced to account for the swing and/or shift applied to the other categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated (1985).*

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 3, 1985.

Commissioner of Customs,

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On December 21, 1984, the Chairman for the Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of goods exported during the twelve-month period beginning on January 1, 1985 and extending through December 31, 1985 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Taiwan, in excess of certain designated restraint limits. The Chairman further advised you that the restraint limits are subject to adjustment.[1]

Effective on October 9, 1985, the directive of December 21, 1984 is hereby further amended to include the adjusted restraint limits for the following categories:

Categories	Adjusted 12-mo restraint limit [1]
313	46,822,103 square yards equivalent.
314	2,501,689 square yards equivalent.
315	29,688,036 square yards equivalent.
317	20,175,223 square yards equivalent.
319	11,014,219 square yards equivalent.
320	89,728,932 square yards equivalent.
331	501,635 dozen pairs.
333/334	71,618 dozen.
335	85,645 dozen.
336	88,226 dozen.
337	145,987 dozen.
338/339	668,530 dozen.
340	748,600 dozen.
341	395,967 dozen.
342	196,810 dozen.
345	92,182 dozen.
347/348	992,756 dozen of which not more than 487,575 dozen shall be in Category 347 and not more than 787,123 dozen shall be in Category 348.
350	101,301 dozen.
351	327,424 dozen.
353/354/653/654	114,821 dozen.
433	13,088 dozen.
434	9,664 dozen.
444	15,374 dozen.
445/446	133,930 dozen.
447	5,635 dozen.
604	503,801 pounds.
605pt [2]	1,077,014 pounds.
612	10,117,519 square yards equivalent.
613	30,151,711 square yards equivalent.
633/634/635	1,539,543 dozen of which not more than 1,015,353 dozen shall be in Category 633/634 and not more than 755,121 dozen shall be in Category 635.
636	331,629 dozen.
637	370,461 dozen.
638	2,201,997 dozen.
639	4,557,449 dozen.
640	3,351,984 dozen.
641	746,320 dozen.
644	171,143 dozen.
647	2,597,546 dozen.
648	3,276,655 dozen.
650	47,175 dozen.
652	1,425,775 dozen.
659pt [3]	1,284,449 pounds.
659pt [4]	1,261,381 pounds.
659pt [5]	3,758,087 pounds.
659pt [6]	3,895,327 pounds.
659pt [7]	3,791,699 pounds.
669pt [8]	965,789 pounds.
669pt [9]	562,085 pounds.
669pt [10]	1,557,377 pounds.
669pt [11]	3,309,234 pounds.
669pt [12]	19,321,197 pounds.
669pt [13]	76,044,338 pounds of which not more than 3,481,838 pounds shall be in T.S.U.S.A. number 706.3420.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1984.

[2] In Category 605, only T.S.U.S.A. number 310.9140.

[3] In Category 659, only T.S.U.S.A. numbers 383.1815 and 383.8022.

[4] In Category 659, only T.S.U.S.A. numbers 703.1610, 703.1620, 703.1630, 703.1640 and 703.1650.

[5] In Category 659, only T.S.U.S.A. numbers 703.0510, 703.0520, 703.0530, 703.0540, 703.0550, 703.0560, and 703.1000.

[6] In Category 659, only T.S.U.S.A. number 383.2059, 383.2060, 383.2061, 383.2062, 382.2346, 383.2347, 383.2348, 383.2349, 383.2352, 382.8651, 383.8652, 383.8653, 383.8654, 383.9256, 383.9257, 383.9258, 383.9259.

[7] In Category 659, only T.S.U.S.A. numbers 379.2340, 379.9100, 379.3170, 379.9570, 383.1920, 383.8300, 383.8400, 383.2239 and 383.9253.

[8] In Category 669, only T.S.U.S.A. numbers 355.4520 and 355.430.

[9] In Category 669, only T.S.U.S.A. number 385.5300.

[10] In Category 669, only T.S.U.S.A. numbers 386.1105 and 389.6210.

[11] In Category 670, only T.S.U.S.A. number 706.3900.

[1] The agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan provides, in part, that: (1) specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement period; (2) certain specific limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal amount in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[18] In Category 670, only T.S.U.S.A. number 706.4140.
[19] In Category 670, only T.S.U.S.A. numbers 706.4144 and 706.4152.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-23994 Filed 10-7-85; 8:45 am]

BILLING CODE 3510-DR-M

Public Comment on Bilateral Textile Consultations With China on Man-Made Fiber Luggage in Category 670pt.

October 3, 1985.

On September 3, 1985, the United States Government under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the People's Republic of China to enter into consultations concerning exports to the United States of braided and unbraided luggage in Category 670pt. (T.S.U.S.A. numbers 706.3420, 706.4144 and 706.4152), produced or manufactured in China.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber luggage in Category 670pt., produced or manufactured in China and exported to the United States during the twelve-month period which began on September 3, 1985 and extends through September 2, 1986 at a level of 12,042,805 pounds.

Anyone wishing to comment or provide data or information regarding the treatment of man-made fiber luggage in Category 670pt. is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

China—Market Statement

Category 670 pt.—Luggage, Man-Made Fiber

August 1985.

Summary and Conclusions

U.S. imports of Category 670—Luggage from China during the year ending June 1985 were 11,815,000 pounds, six times the imports of 1,967,000 pounds a year earlier. Imports for the first six months of 1985 were 7,159,000 pounds, almost seven times the January–June 1984 imports and more than the 5,732,000 pounds imported in all of 1984. China was the third largest supplier of man-made fiber luggage during the first six months of 1985 when it accounted for 13 percent of the total imports.

The U.S. market for Category 670—Luggage is severely disrupted by imports and the high volume and rapid rise in imports from China have contributed to this disruption.

Production and Imports

U.S. production of man-made luggage is measured by the fabric consumed by the luggage producing establishments while imports are measured by the fabric content of imported luggage.

The fabric consumed by the U.S. luggage manufacturers dropped sharply from 36 million pounds in 1982 to 30 million in 1984. Imports of fabric from all sources contained in non-braided luggage increased from an estimated 62 million pounds in 1982 to 143 million in 1984. In 1984, approximately 300,000 pounds of luggage was imported under TSUSA No. 706.3400 which also included man-made fiber handbags and flatgoods. These latter imports are not included in the tables covering imports.

Import Penetration and Market Shares

The ratio of imports to production of Category 670—Luggage sharply increased from 172 percent in 1982 to 477 percent in 1984. The ratio would have been higher if braided luggage imported under TSUSA No. 706.3400 had been included. The U.S. producers' share of the market for domestically produced and imported luggage declined from 36.7 percent in 1982 to 17.3 percent in 1984.

Wholesale Prices, Chinese and U.S. Producers

Imports of man-made fiber luggage from China entered at low duty-paid values, resulting in wholesale prices well below those of comparable U.S. produced luggage.

[FR Doc. 85-23995 Filed 10-7-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting Import Charges for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

October 3, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 9, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On July 15, 1985, a notice was published in the **Federal Register** (50 FR 28605), which announced that agreement had been reached between the Governments of the United States and the Republic of Korea to further amend the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, to charge overshipments of man-made fiber luggage in Category 670pt. (only T.S.U.S.A. numbers 706.4144 and 706.4152), which occurred during the 1984 agreement year, over a period of three years. July import data have revealed that the total amount of the 1984 overshipment was higher than previously calculated. Accordingly, the incremental amount of the overshipment to be deducted from imports charged to the current agreement year limit is also being increased. The total amount deducted from 1985 charges, including 1984 swing of 896,000 pounds, will be 1,446,664 pounds. The letter to the Commissioner of Customs which follows this notice amends the letter of June 21, 1985 to increase the amount deducted.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July

16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreement.

October 3, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, I request that, effective on October 9, 1985, you amend line three, paragraph two, of the letter of June 21, 1985 to include the amount of 1,446,664 pounds to be deducted from charges made to the restraint limit established in the directive of December 21, 1984 for man-made fiber textile products in Category 670pt.[1], produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-23996 Filed 10-7-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Additions and Deletions

Correction

In FR Doc. 85-21925, beginning on page 37396 in the issue of Friday, September 13, 1985, make the following correction: On page 37397, in the first column, under the heading *Commodities*, the last number in the procurement list addition for wood containers should have read "8115-L1-466-4120".

BILLING CODE 1505-01-M

[1] In Category 670, only T.S.U.S.A. numbers 706.4144 and 706.4152.

DEPARTMENT OF DEFENSE

Office of the Secretary

Command, Control and Communications; Unauthorized Use of the Global Positioning System (GPS)

SUMMARY: The Department of Defense has placed a research and develpment (R&D) constellation of navigation satellites in orbit that are the forerunners of an operational Global Positioning System (GPS) constellation of 18 navigation satellites plus three on-orbit spares. The R&D constellation is essential to the development of the satellites, military user equipment and ground control facilities. During the development phase of the GPS, the R&D satellites will transmit signals which are intended only for military testing purposes.

When the GPS is declared fully operational, an event that is scheduled to occur in late 1988—early 1989, the DoD intends to provide GPS Standard Positioning Service (SPS) to any user, world-wide, at an accuracy within the limits of national security considerations. The current accuracy that is planned for the SPS is 100 meters. Two Distance Root Mean Square (2 DRMS). There is no plan to charge users for this service.

In the meantime, the signals from the R&D satellites are subject to change without advanced warning, may transmit non-useable altered signals for government testing, and may be turned on and off at any time. Therefore, any use of the GPS R&D satellite signals for positioning, navigation, time transfer, or any other purpose (which may be considered or which might be ruled by law as operational, or relied upon as such), is not authorized by the U.S. Government and will be at the risk of the user.

ADDRESS: Office of the Assistant Secretary of Defense, Command, Control, Communications, and Intelligence, Room 3D174, the Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Colonel P. Baker, telephone (202) 695-6123.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 3, 1985.

[FR Doc. 85-24033 Filed 10-7-85; 8:45 am]

BILLING CODE 3810-01-M

Medical Reimbursement Rates for Fiscal Year 1986

Notice is hereby given that the Assistant Secretary of Defense (Comptroller) in a September 26, 1985, memorandum to the Assistant Secretary of Defense (Health Affairs) and the Assistant Secretaries of the Military Departments (FM) established reimbursement rates for inpatient and outpatient medical care provided during Fiscal Year 1986 as follows:

	IMET [1]	Inter-agency [2]	Other
Per inpatient day:			
• Burn Center, Brooke Army Hospital	$679	$1,344	$1,457
• All other general medical and dental care	153	410	441
Per outpatient visit	19	55	58
Per FAA Traffic Controller examination		84	

[1] International Military Education and Training Students.
[2] Other Federal Agency-sponsored patients and Government civilian employees and their dependents outside the United States.

The per diem rate (supplies and subsistence) charged to dependents of military personnel in Federal medical care facilities is $7.30 per day.

ADDRESS: Office of the Assistant Secretary of Defense (C/MS/Accounting Policy), Room 3A882, the Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Williams, telephone (202) 697-0536.

Dated: October 3, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-24032 Filed 10-7-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Establishment of Performance Review Board; Names of Board Members; Correction Notice

The names of the persons appointed to serve on the Performance Review Board for the Department of Energy were published in the **Federal Register** (50 FR 33818) on August 21, 1985. The following persons should be added to that listing effective August 21, 1985:

Robert C. MacKichan, Jr.	Robert M. Forsell
Gordon L. Chipman, Jr.	Thomas L. Foster
James F. McAvoy	Souren Hanessian
Joann S. Elferink	William S. Humphrey, Jr.
John E. Paisley	David B. Pye
Franklin G. Peters	Gene L. Rogers
Morris L. Myers	Robert L. Hymer
John Gilbert	Donald Ofte
Thomas C. Newkirk	Robert E. Tiller, Jr.
Bruce A. Cooper	Stuart B. Milam
Charles W. Edington	Joseph A. Lenhard
Charles Brown	Joseph A. Anttonen

Jack L. Rhoades
Bruce G. Twining
Carl Gaddis
Joseph G. Coyne
Thomas A. Hine
Peter G. Ungerman
Thomas L. Weaver
Richard Furiga

Issued in Washington, D.C., on October 1, 1985.

William S. Heffelfinger,

Director of Administration.

[FR Doc. 85-24007 Filed 10-7-85; 8:45 am]

BILLING CODE 6450-01-M

Nevada Operations Office, Dose Assessment Advisory Group; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Dose Assessment Advisory Group (DAAG).

Date and Time: Thursday, October 24, 1985, 8:30 a.m.—4:00 p.m.

Place: U.S. Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada.

Contact: Charles M. Campbell Deputy Project Manager Off-Site Radiation Exposure Review Project Nevada Operations Office U.S. Department of Energy Post Office Box 14100 Las Vegas, Nevada 89114 Telephone: (702) 295-0991.

Purpose of the Group

To provide the Secretary of Energy and the Manager, Nevada Operations Office (NV), with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project (ORERP). This project concerns the evaluation and assessment of the amount of radiation received by members of the off-site population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at the NTS.

Tentative Agenda

October 24, 1985

Welcome and Introductions
Discussion of DAAG Recommendations
Nonspecific Individual and Population Dose Estimates, Phase I
- Introduction
- Estimates of Exposure Rates and Time of Arrivals
- Estimates of Population
- External Exposures and Doses
- Progress on PATHWAY Model
- Results of Milk Study
- Use of Lifestyle Survey Results
- Progress in Internal Dose Calculations
- Deadlines for Completion of Phase I

Coordination and Information Center (CIC) and Document Collection Presentation
- Document Collection by History Associates Inc. (HAI)
- CIC Archiving Activities
- Summary

Fallout Pattern Reconstruction
- T/S EASY
- SIMON
- Computer Modeling

Validation and Documentation of Survey Meter Data Base
Public Comment (5-Minute Rule)

October 25, 1985

Progress in Phase II Activities
- Preliminary Results of Soil Analysis Program
- Comparison of ORERP and Environmental Measurements Laboratory
- Analysis of Sediment Cores from Utah Lakes
- TRINITY
- Deadlines for Completion of Phase II
- Schedule for Completion of DAAG and ORERP Final Reports

Update of University of Utah Dosimetry Projects
DAAG Discussion and Recommendations
Public Comment (5-Minute Rule)

Public Participation

The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly condust of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Campbell, at the address or telephone number listed above.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1R-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on October 3, 1985.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 85-24002 Filed 10-7-85; 8:45 am]

BILLING CODE 6450-01-M

Liquefied Gaseous Fuels Spill Test Facility

In accordance with Congressional action on the Continuing Resolution (Pub. L. 97-377), the Department of Energy (DOE), in support of the Fossil Energy Liquefied Gaseous Fuels (LGF) Spill Test Facility Program, is setting forth this notice that it is rapidly approaching completion of construction activities related to the Spill Test Facility. The facility, being constructed at the Department's Nevada Test Site (NTS), Mercury, Nevada, will be capable of the rapid release of large quantities of cryogenic, flammable, or toxic materials, and is being built in concert with and in response to the needs of many industrial and government organizations. To that end, the facility has been designed to reproduce the size and rate of accidental releases as closely as possible with the actual materials of concern.

It can (1) discharge, at a controlled rate, a known amount of hazardous test fluid; (2) monitor and record process operating data, meteorological data, downwind gas concentration data, and other data as is required for the experiment; and (3) provide a means to control and monitor these functions from a remote location.

The spill facility consists of two generally separate process systems. The larger and more complex of the two is designed to handle cryogenic fluids such as Liquefied Natural Gas (LNG). The noncryogenic spill system is designed to handle fluids that normally are stored and shipped as pressurized liquids, such as ammonia.

The NTS and the surrounding Nellis Air Force Range is remote and not open to public access. The area downwind of the spill facility is essentially unpopulated with access strictly controlled all the way to the Nellis boundary 60 km (37 miles) away.

In conjunction with this notice, the DOE is inviting industry and federal agency representatives who have an interest in the LGF Spill Test Facility to attend a forum which will be held November 7, 1985, in Las Vegas, Nevada. It is the intent of the Department to provide forum attendees the opportunity to review and discuss operations policy and procedures which will be utilized in administering industry/government use of the facility and to view its construction status.

FOR FURTHER INFORMATION CONTACT:
Mr. J. E. Walsh, Jr. Deputy Assistant Secretary for Management, Planning and Technical Coordination Office of Fossil Energy, FE-10 U.S. Department of Energy Washington, DC, 20545.

Issued in Washington, D.C., on September 25, 1985.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85-24003 Filed 10-7-85; 8:45 am]

BILLING CODE 6550-01-M

Bonneville Power Administration

Implementation of the Industrial Incentive Rate for the Direct-Service Industrial Customers of the Bonneville Power Administration

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Final Action. *BPA File No:* INCENT-3.

SUMMARY: On July 19, 1985, BPA proposed implementing the Industrial Incentive Rate for BPA's direct-service industrial customers (DSIs) over the period September 1, 1985, through May 31, 1986. The market price for aluminum was then, and still remains, depressed. Absent an incentive rate, BPA would have expected several DSIs to curtail production from earlier levels. In an effort to maintain as much of the existing load as possible, BPA investigated whether BPA's revenues would increase as a result of implementation of the Industrial Incentive Rate. Based on the results of its initial studies, public comments, and revised studies, BPA published, on August 28, 1985, its Record of Decision adopting an Industrial Incentive Rate. The rate will average approximately 4.7-mills per kilowatthour less than the Standard Inudustrial Rate.

The Industrial Incentive Rate will be effective for a 10-month period beginning September 1, 1985, and continuing through June 30, 1986. The rate shall be applied on a take-or-pay basis to the committed loads of the DSIs who elected to purchase under this arrangement. Purchases of Industrial Firm Power in excess of the Committed Demand at 100 percent load factor will be subject to the Standard Industrial Rate.

Responsible Official: Janet W. McLennan, Assistant Power Manager for Natural Resources and Public Services, is the official responsible for implementation of the Industrial Incentive Rate.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Baker, Bonneville Power Administration, Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212. Telephone numbers, voice/TTY for the Public Involvement office are: 503-230-3478 in Portland; toll-free 800-452-8429 for Oregon outside of Portland; 800-547-6048 for Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Reginald M. Kaiser, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-422-4131.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-434-6226, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9137.

SUPPLEMENTARY INFORMATION:

I. Background

The Industrial Incentive Rate is a reduced rate designed to increase BPA's revenues during periods of adverse market conditions for the aluminum industry over those revenues which would be expected to result from application of BPA's Standard Industrial Rate over the same period. The rate also is intended to stimulate industrial production and maintain employment in the Pacific Northwest. Under the terms of the 1985 General Rate Schedule Provisions, the Industrial Incentive Rate can be offered to the DSI's only if BPA can demonstrate that the net result of implementing the rate would be to increase total BPA revenues.

BPA has implemented an incentive rate twice before, once for the period September 1984 through February 1985 and again between March and June 1985. Aluminum prices remained low throughout the summer of 1985, but because BPA's summer rates (the lowest of the year) were in effect, it would not have been possible to meet the revenue test which is required in order for BPA to implement an incentive rate.

II. BPA's Action

In a feasibility study published on July 19, 1985, BPA analyzed the appropriateness of instituting an incentive rate equivalent to a 5-mill per kilowatthour discount for the Standard Industrial Rate. The rate was proposed to be effective for the period September 1, 1985, through May 30, 1986. Following a 3-week public comment period, BPA revised its feasibility study. The results of the revised study indicated that it would be appropriate to offer the DSIs a discount averaging approximately 4.7 mills per kilowatthour, contingent on a take-or-pay commitment that would ensure that BPA's revenues would increase as a result of the offer. Although BPA originally sought a commitment level of 2050 megawatts (MW) which would have provided that agency with an additional $0.382 million, the DSIs committed to purchasing 2241.4 MW, thereby increasing BPA's projected revenue benefit to $12.8 million.

The incentive discount will be applied entirely to the energy charge and will vary over the incentive rate period. The discount will be 6 mills for the months September through March, 3 mills for April, and 1 mill for May and June. The effect of this discount stream will be to levelize the industrial rate over the incentive rate period. The average industrial rate for the 10 months during which the incentive rate applies will be approximately 18.8 mills per kilowatthour.

In order to encourage DSIs to make the greatest commitment possible, BPA originally proposed assessing the Standard Industrial Rate for all purchases in excess of the committed levels. However, in the comment period it was noted that this provision did not provide the DSIs with adequate operating flexibility. It was also observed that imposition of the Standard Industrial Rate for additional purchases could discourage the DSIs from increasing their power purchases should the price of aluminum rise over the incentive rate period. As a result, BPA modified the proposal to permit, at the Administrator's discretion, a one-time upward adjustment in each DSI's commitment level effective some time after the first of the year. In the final incentive rate contract, BPA provided operational flexibility to the DSIs. Any DSI whose Committed Energy was established at a load factor commensurate with a historically typical or otherwise appropriate level is allowed to purchase an amount of energy at the incentive rate equal to the Committed Demand at 100 percent load factor. The load factor requirement was established to ensure that the DSI would provide a reasonable commitment.

Further information relating to the Industrial Incentive Rate is contained in the Final Feasibility Study, the Evaluation of the Record, and the

Record of Decision. Copies of these materials are available from the BPA Public Involvement office at the address listed under "FOR FURTHER INFORMATION CONTACT."

Issued in Portland, Oregon, on September 23, 1985.

Peter T. Johnson,

Administrator.

[FR Doc. 85-24006 Filed 10-7-85; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

American Statistical Association Committee on Energy Statistics; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

NAME: American Statistical Association's Committee on Energy Statistics, a utilized Federal Advisory Committee.

DATE AND TIME: Thursday, October 24, 1985, 1:30 p.m.—5:00 p.m. Friday, October 25, 1985, 9:00 a.m.—3:30 p.m.

Place: Holiday Inn-Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007

Contact: Dr. Morris Gold, EIA Committee Liaison, U.S Department of Energy, Energy Information Administration, EI-74, Washington, DC 20585, Telephone: (202) 252-8312

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda

Thursday, October 24, 1985

A. Opening Remarks

B. Major Topics:

1. Statistical Issues in Curtailing Activity of the Petroleum Supply Weekly

2. Update on Standards

3. Residential Energy Consumption Survey (RECS): From a 2-Year to a 3-Year Cycle

4. A 10-Year View of Electricity Load Patterns (Public Comments)

Friday, October 25, 1985

5. Report of the National Academy of Sciences Committee on User Needs for Natural Gas Data

6. Streamlining the *Annual Energy Outlook (AEO)* Modeling Process

7. Graphical Packages and Graphical Standards

8. Status Report on Information Dissemination Policies (Public Comments)

C. Topics for Future Meetings

Public Participation

The meeting is open to the public. The chairperson of the panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Dr. Morris S. Gold, EIA Committee Liaison, at the address or telephone number listed above. Requests must be received at least five days prior to the meeting. Reasonable provisions will be made to include such presentations on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, (Room 1E-190), 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6025, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday. Issued at Washington, D.C. on October 2, 1985.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 85-24004 Filed 10-7-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP85-810-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and Producer-Suppliers of Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Informal Conference

October 3, 1985.

Take notice that an informal conference will be convened in the above-captioned proceeding on October 10, 1985, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426.

All interested parties are invited to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-24008 Filed 10-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EC85-24-000, et al.]

Alabama Power Co. et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Alabama Power Company

[Docket No. EC85-24-000]

October 1, 1985.

Take notice that on September 26, 1985, Alabama Power Company (Alabama Power) filed an application, pursuant to section 203 of the Federal Power Act, for approval of the sale of certain of its facilities to The City of Dothan, Alabama (City).

The facilities are located in and around the City of Dothan, Houston County, Alabama. The total purchase price of the facilities to be sold and conveyed is $2,755,000.

Alabama Power states that the transaction would result in a reduction in the City's electrical demand which in turn would result in a reduction in their purchased power cost.

Comment date: October 11, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa-Illinois Gas and Electric Company

[Docket No. ER85-796-000]

October 1, 1985.

Take notice that Iowa-Illinois Gas and Electric Company (Company), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, on September 26, 1985, tendered for filing pursuant to §§ 35.15 and 35.13 of the Regulations under the Federal Power Act, a Notice of Cancellation of wholesale electric service in respect of the City of Farnhamville, Iowa, a Rate Schedule WES-M purchaser under Company's FPC Wholesale Electric Tariff, Original Volume No. 1, proposed effective at the hour of noon, 12:01 p.m. (CST), December 31, 1985, pursuant to the terms of the Electric Service Agreement dated November 1, 1976, and a termination notice given by the City of Farnhamville to the Company.

Company also tendered for filing, to become effective concurrently on December 31, 1985, the following revised sheets to it Wholesale Electric Tariff, Original Volume No. 1 to reflect the consequences of the Notice of Cancellation:

1st Revised Sheet Nos. 3, 21, and 26
2nd Revised Sheet Nos. 2 and 22
3rd Revised Sheet No. 7

Company states the revisions proposed do not affect the contract provisions, services, rates, sales, or billings as to any other purchaser under the Wholesale Electric Tariff.

Company states an executed copy of the Notice of cancellation and a complete copy of the filing was mailed to the City of Farnhamville, and

complete copies of the filing were mailed to the Cities of Buffalo and Callender, Iowa; Sherrard Power System, Orion, Illinois; the Eldridge Electric Water and Utility Board, Eldridge, Iowa; the Iowa State Commerce Commission; and the Illinois Commerce Commission.

Comment date: October 11, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. New York State Electric & Gas Corporation

[Docket No. ER85-794-000]

October 1, 1985.

Take notice that New York State Electric & Gas Corporation (NYSEG) on September 25, 1985, tendered for filing pursuant to Section 35.12 of the Regulations under the Federal Power Act, as a rate schedule, an agreement with Central Hudson Gas & Electric Corporation. The agreement provides that NYSEG shall sell economy energy on an interruptible basis to Central Hudson Gas & Electric Corporation. Service under this agreement commenced on July 22, 1985 and is to continue until terminated by either party upon not less than 30 days prior written notice.

NYSEG has filed a copy of this filing with Central Hudson Gas & Electric Corporation and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that July 1, 1985 be allowed as the effective date of the filing.

Comment date: October 11, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Southern California Edison

[Docket Nos. ER82-427-006 and ER84-75-007]

October 1, 1985.

Take notice that on September 25, 1985 Southern California Edison (Edison) tendered for filing six copies of Revised Workpapers to Edison's Report of Refunds made in accordance with settlement agreement approved by Commission order dated July 9, 1985. The Revised Workpapers relate to Appendix V of Volume 2 of Edison's September 9, 1985 filing. Appendix V includes cost of service computer runs and associated workpapers supporting the rate design and revised rates.

Edison requests that the Appendix V contained in this filing be substituted for the original Appendix V filed on September 9, 1985. Edison requests the substitution because the original filing inadvertently contained an incorrect cost of service program and supporting workpapers.

Comment date: October 15, 1985, in accordance with Standard Paragraph H at the end of this notice.

5. Ohio Power Company

[Docket No. ER85-795-000]

October 1, 1985.

Take notice that the American Electric Power Service Corporation (AEP) on September 26, 1985 tendered for filing on behalf of its affiliate Ohio Power Company (Ohio Power) Supplemental Schedule III, dated as of October 1, 1985, to Service Schedule A—Transmission Service under Agreement, dated as of April 1, 1974 (1974 Agreement), between American Municipal Power Ohio, Inc. (AMP-Ohio) and Ohio Power, Ohio Power Rate Schedule FERC No. 74.

Supplemental Schedule III defines an Interconnection Point and a Delivery Point that is required by service Schedule A so that AMP-Ohio can avail itself of the Transmission Service provided for in Service Schedule A. This schedule has been proposed by AMP-Ohio to become effective October 1, 1985, therefore waiver of the Commission's notice requirements is requested.

Copies of this filing were served upon the Public Utilities Commission of Ohio and AMP-Ohio.

Comment date: October 11, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Utah Power & Light Company

[Docket No. ER85-806-000]

October 2, 1985.

Take notice that on September 30, 1985, Utah Power & Light Company (Utah Power) submitted for filing with the Commission the Second Amendment to the Interconnection Agreement between Utah Power and Sierra Pacific Power Company (Sierra) dated September 3, 1985.

This Second Amendment, which is to take effect on July 1, 1986, results from a dispute which arose between Utah Power and Sierra with respect to the interpretation of a Settlement Agreement which is pending before the Commission in Docket No. ER84-572-001. This Amendment is expected to reduce the cost of power and energy purchased from Utah Power by Sierra because of a change in the method of calculating billing demands. There is no change in rate.

Copies of the filing have been served upon all parties on the Official Service List for FERC Docket No. ER84—572 and upon all other parties required to be served.

Comment date: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Company Services, Inc.

[Docket No. ER85-797-000]

October 2, 1985.

Take notice that Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies") Tendered for filing Extended and Revised Service Schedule S to an interchange contract between Florida Power & Light Company and Southern Companies on September 27, 1985.

Extended and Revised Service Schedule S sets forth the terms, conditions and rates under which Southern Companies agree to deliver power and energy purchased from South Carolina Electric & Gas Company for contemporaneous sales and delivery to Florida Power & Light Company. The term of Extended and Revised Service Schedule S shall expire on December 31, 1985 or when a specified amount of power and energy has been received by Southern Companies from SCE&G and delievered to FPL, whichever occurs first.

Comment date: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Southern Company Services, Inc.

[Docket No. ER85-798-000]

October 2, 1985.

Take notice that Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies") tendered for filing Service Schedule S to an interchange contract between Jacksonville Electric Authority and Southern Companies on September 27, 1985.

Service Schedule S sets forth the terms, conditions and rates under which Southern Companies agreed to deliver power and energy purchased from South Carolina Electric & Gas Company for contemporaneous sale and delivery to Jacksonville Electric Authority. The term of Service Schedule S shall expire on December 31, 1985 or when a specified amout of power and energy is delivered to Jacksonville Electric Authority, whichever occurs first.

Comment date: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Pennsylvania Electric Company

[Docket No. ER85-800-000]

October 2, 1985

Take notice that on September 30, 1985, GPU Service Corporation (GPU) tendered for filing a letter agreement between GPU as agent for Pennsylvania Electric Company (Pennsylvania) and Baltimore Gas and Electric Company (Baltimore). GPU states that under the agreement Pennsylvania will provide scheduled transmission service for Baltimore on a weekly basis utilizing its transmission facilities.

GPU requests an effective date of September 30, 1985, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon Baltimore Gas and Electric Company.

Comment date: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Portland General Electric Company

[Docket No. ER85-803-000]

October 2, 1985.

Take notice that on September 30, 1985, Portand General Electric Company (PGE) tendered for filing its revised Avergae System Cost (ASC) which reflects PGE's Power Cost Adjustment (PCA) rate change which became effective with meter readings on and after January 30, 1985. This filing includes a revised Schedule 4 to Appendix 1, Exhibit C of the Residential Purchase and Sale Agreement along with the authorization to implement this rate change from the Public Utility Commissioner of Oregon.

PGE states that the filing shows that the PCA adjustment to the current base ASC is (1.23) mills/kWh, which when combined with the base ASC results in a net ASC rate effective for this period.

Comment date: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. Ohio Power Company

[Docket No. ER85-804-000]

October 2, 1985.

Take notice that American Electric Power Service Corporation (AEP) on September 30, 1985 tendered for filing on behalf of its affiliate Ohio Power Company (OPCO), which is an AEP affiliated operating subsidiary, Modification No. 12 dated August 30, 1985 to the Facilities and Operating Agreement dated May 1, 1967 between OPCO and the Dayton Power and Light Company (Dayton). The Commission has previously designated the 1967 Agreement as OPCO's Rate Schedule FERC No. 36 and Dayton Company's Rate Schedule FERC No. 31.

Sections 1 and 2 of Modification No. 12 increased the transmission demand rate for Emergency Energy to 2.75 mills per kilowatthour when OPCO is the supplying party and to 2.45 mills per kilowatthour when Dayton is the supplying party. In addition, Section 3 revises the provisions for Economy Energy by adding a 3.75 mill per kilowatthour minimum to OPCO's multi-party Economy Energy rate and a 3.45 mill per kilowatthour minimum to Dayton's multi-party Economy Energy rate. Section 5 of this Modification updates the provisions for Non-Displacement Power and Energy by adding a 2.75 mill per kilowatthour demand charge for multi-party transmission when OPCO is the supplying party and a 2.45 mill per kilowatthour demand charge when Dayton is the supplying party.

AEP has requested that the Commission permit this Modification to become effective in two parts, allowing OPCO's 2.75 mill per kilowatthour demand charge to become effective as of August 10, 1985 and the remainder of this Modification to become effective as of September 25, 1985. This request has been made so that OPCO could participate in multi-party opportunity sales to Dayton that would not have otherwise been made.

OPCO's rates in this Modification are consistent with the charges associated with the transmission demand rates OPCO presently has in effect for Transmission Service, Limited Term Power, and Short Term Power services. These rates have previously been submitted and accepted for filing by the Commission for filing in numerous other OPCO filings.

Copies of this filing were served upon Dayton and the Public Utilities Commission of Ohio.

Comment date: OCtober 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

12. Interstate Power Company

[Docket No. ER85-801-000]

October 2, 1985.

Take notice that Interstate Power Company (Company) tendered for filing on September 30, 1985, an Electric Service Agreement between the City of Mountain Lake, Minnesota and Interstate Power Company. This agreement provides for the delivery of firm power and energy the Company receives from the Western Area Power Administration and the Missouri Basin Municipal Power Agency for delivery to the City.

The Company's standard wheeling rate, as approved in Docket ER76-5 55, will apply.

Comment dat;e: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

13. Indiana & Michigan Electric Company

[Docket No. ER85-799-000]

October 2, 1985.

Take notice that American Electric Power Service Corporation (AEP) on September 30, 1985 tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME), Amendment No. 28 dated August 15, 1985 to the Operating Agreement dated March 1, 1966 among Consumers Power Company (Consumers), The Detroit Edison Company (Detroit) sometimes collectively referred to as the Michigan Companies, and I&ME. The Commission has previously designated the 1966 Agreement as I&ME's Rate Schedule FERC No. 68 and Michigan Companies Rate Schedule FERC No. 12.

Amendment No. 28 provides for a new service schedule, Service Schedule J—Experimental Off-Peak Transmission Service. Under this Service Schedule, the Michigan Companies desire to have I&ME transmit up to a maximum of 1,000 MW of off-peak energy from Commonwealth Edison Comapny through I&ME to Michigan Companies, for the period October 1, 1985 through March 31, 1985. Such off-peak energy will be transmitted only during the Off-peak hours of nights, weekends, and national holidays.

The rate for Off-Peak Transmission Service is $2.50 per megawatthour received from Commonwealth Company.

Copies of the filing were served upon Consumers Power Company, the Detroit Edision Company, Public Service Commission of Indiana, and Michigan Public Service Commission.

Comment date: October 11, 1985, in accordance with Standard Paragraph E at the end of this notice.

14. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER85-802-000]

October 2, 1985.

Take Notice that on September 30, 1985, Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, tendered for filing, in accordance with § 35.12 of the

Commission's Regulations, an Agreement dated December 26, 1984, between Pacific and the Bonneville Power Administration (Bonneville) providing for the storage of Bonneville's energy in the fuel supply of Pacific's thermal generating resources.

Pacific requests this rate schedule to become effective December 26, 1984, which it claims is the date of commencement of service. The Agreement expired under its own terms on June 30, 1985. Therefore, Pacific also requests that any rate schedule assigned be simultaneously cancelled upon the Commission's acceptance of this filing.

Copies of the filing were supplied to the Public Utility Commissioner of Oregon and to Bonneville.

Comment date: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

15. Commonwealth Edison Company

[Docket No. ER85-805-000]

October 2, 1985.

Take notice that Commonwealth Edison Company on September 30, 1985 tendered for filing an Agreement dated July 15, 1985 among Commonwealth Edison Company (Commonwealth), Consumers Power Company and the Detroit Edison Company (Michigan Companies).

The Agreement provides for Commonwealth to supply Experimental Off-Peak Energy to the Michigan Companies in order to effect economies of operation among the parties. It will be the responsibility of the Michigan Companies to make arrangements for the transfer of such energy through the system of a third party having interconnections with both Commonwealth and the Michigan Companies.

Copies of the filing were served upon Consumers Power Company, the Detroit Edison Company, the Michigan Public Service Commission and the Illinois Commerce Commission.

Comment date: October 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23952 Filed 10-7-85; 8:45 am]

BILLING CODE 6717-01-M

Arkansas Department of Parks and Tourism et al; Availability of Environmental Assessment and Finding of No Significant Impact

October 1, 1985.

In the matter of Arkansas Department of Parks and Tourism, Project No. 7160-001; Resources I, Inc., 7452-001; Killington Hydroelectric Co., 8354-000; Town of Levan, UT, 9041-000; Mitex, Inc., 3725-002; Potosi Power Company, Inc., 7856-001; BES Hydro, Inc., 8936-000; Summit Hydropower, 8051-001.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for and exemptions from licensing listed below and has assessed the environmental impacts of the proposed developments.

Project No. and Project name	State	Water body	Nearest town	Applicant
Exemptions:				
7160-001; Mammoth Spring	AR	Mammoth Spring	Mammoth Spring	Arkansas Department of Parks and Tourism.
7452-001: Clear Creek	OR	Clear Creek	Halfway	Resources I, Inc.
8354-000: Killington	VT	Kent (Thundering) Brook	Sherburne	Killington Hydroelectric Company.
9041-000: Pigeon Creek Hydro.	UT	Pigeon Creek	Levan	Town of Levan, UT.
Licenses:				
3725-002: Swift Dam	MT	Birch Creek	Pondera County	Mitex, Inc.
7856-001: Potosi	MT	South Willow Creek	Pony	Potosi River Company, Inc.
8936-000: Power Canal	CA	Fork Russisn River	Potter Valley	BES Hydro, Inc.
8051-001: Willimantic No. 1	CT	Willimantic River	Willimantic	Summit Hydropower

Environmental assessment (EA's) were prepared for the above proposed projects. Based on an independent analysis of the above action as set forth in the EA's, the Commission's staff conclude that these projects will would not have significant effects on the quality of the human environment. Therefore, environmental impact statements will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23940 Filed 10-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 6802-001, et al.]

Snowbird, Ltd., et al.; Hydroelectric 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:

1 a. Type of Application: 5MW Exemption.

b. Project No: 6802-001.

c. Date Filed: June 6, 1985.

d. Applicant: Snowbird, Ltd.

e. Name of Project: Tannersville Water Power Project.

f. Location: On Little Cottonwood Creek in Salt Lake County, Utah.

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: A. Colin Jackson, President, Snowbird Development Co., Snowbird, Ltd., Snowbird, Utah 84092.

i. Comment Date: October 29, 1985.

j. Description of Project: The proposed project is located within the Wasatch National Forest and would consist of: (1) An intake structure in the creek bank at elevation 7875 m.s.l.; (2) a buried reinforced concrete pipeline penstock, 39 inches in diameter and about 7,875 feet long; (3) a powerhouse containing a trbine-generator unit rated at 2,423 kW; (4) an underground tailrace returning

flow to the creek at elevation 7,300 m.s.l.; (5) a buried 25-kV transmission cable, about 1.5 miles long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7.644 million kWh.

k. Purpose of Project: Project energy will be utilized by the Applicant and/or sold to the Utah Power & Light Company.

l. This application has been accepted for filing as of October 26, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power, 28 FERC ¶ 61,061 issued July 18, 1984.

m. *Agency Comments*—The U.S. Fish and Wildlife 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 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. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. One copy of an agency's comments must also be sent to the Applicant's representatives.

n. This notice also consists of the following standard paragraphs: B and C.

2 a. Type of Application: Major License (5MW or Less).

b. Project No: 7232–001.

c. Date Filed: February 28, 1985, and supplemented July 9, 1985.

d. Applicant: Aero Construction, Inc.

e. Name of Project: Columbus Lock & Dam Hydro Project.

f. Location: On the Tombigbee River near Columbus, Lowndes County, Mississippi.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ralph L. Laukhuff, Jr., P.O. Box 64844, Baton Rouge, LA 70896.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Columbus Lock and Dam, and existing 700-foot-long and 50-foot-wide diversion channel. The proposed hydrogenerating facility, located entirely in the diversion channel, would consist of: (1) A proposed intake structure with trash racks and hydraulic slide gates; (2) a new powerhouse that would be located on the left bank of the eastern embankment, and that would house three 1,200–kW generators for a total installed capacity of 3,600 kW; (3) a new 12.47–kV transmission line; and (4) appurtenant facilities.

The lands of the United States affected by the project would total 14.7 acres under the control of the U.S. Army Corps of Engineers. The Applicant estimates that the average annual generation would be 17,450 MWh. Project energy would be sold to TVA through its distributor, 4-County Electric Power Association. The license application was filed during the term of the Applicant's preliminary permit, Project No. 7232.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

3 a. Type of Application: Preliminary Permit.

b. Project No: 8804–000.

c. Date Filed: December 17, 1984.

d. Applicant: Mill Creek Associates Company.

e. Name of Project: Strawberry Flats.

f. Location: On the Rogue River, near the town of Shady Cove, in Jackson County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 725(a)–825(r).

h. Contact Person: Leighton and Sherline, Attention: Lee Sherline, Suite 101, 1010 Massachusetts Ave., NW., Washington, DC 20001–5402.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed project would consist of (1) Adding a third inlet gate to the existing gravity dam of Project No. 2630; (2) widening of the canal by 9 feet; (3) enlarging the forebay surface area by 1.5 acres; (4) a proposed penstock 4021-feet-long with a diameter of 80 inches; and (5) installing a generating unit with a capacity 20,000kW and an average annual generation of 70 GWh in the existing Prospect No. 2 powerhouse.

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 and environmental feasibility studies and prepare an FERC license application at a cost of $350,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

4 a. Type of Application: Small Conduit Exemption.

b. Project No.: 8961–000.

c. Date Filed: February 19, 1985.

d. Applicant: Twin Falls Canal Company.

e. Name of Project: Lower Low Line.

f. Location: On Low Line Canal, just east of Rock Creek, in Twin Falls County, Idaho.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 an 2708 as amended).

h. Contact Person: Mr. Maurice Klaas, President, twin Falls Canal Company, Board of Directos, P.O. box 326, Twin Falls, Idaho 83301.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed project would consist of: (1) A 12-foot-high intake structure on the Applicant's Low Line Canal. (2) a 1,800-foot-long, 132-inch-diameter penstock; (3) a powerhouse containing a single generating unit with a capacity of 2,800 kW and an average annual generation of 2,367 GWh; and (4) a 4.5-mile-long transmission line.

Purpose of Exemption—An exemption, if issued, gives an 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 would be sold.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9132–000.

c. Date Filed: April 25, 1985.

d. Applicant: Akron Associates.

e. Name of Project: Akron.

f. Location: Cuyahoga River in Summit County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Roseman, Attorney at Law, 1350 New York Avenue, NW., #600, Washington, DC 20005.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 62-foot-high, 450-foot-long concrete gravity dam owned by the Ohio Edison Company; (2) an existing reservoir with a surface area of 48 acres, and a storage capacity of 1,410 acre-feet at water

surface elevation 908 feet MSL; (3) a proposed 10-foot-diameter, 3,000-foot-long penstock; (4) a proposed powerhouse containing a generating unit with a rated capacity of 5,000 kW; (5) and a proposed 600-foot-long transmission line tying into the existing Ohio Edison Company System. The Applicant estimates a 24 GWh average annual energy production.

k. 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 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depanding upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $35,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

6 a. Type of Application: Preliminary Permit.

b. Project No: 9193-000.

c. Date Filed: May 16, 1985.

d. Applicant: Riverdale Associates.

e. Name of Project: Davis-Weber Canal Hydro Project.

f. Location: On Davis-Weber Canal in Weber County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mike Graham, President, G.W.P., 484 East 300 North Manti, UT 84642.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed project would utilize an abandoned site owned by the Utah Power & Light Co. and would consist of: (1) An existing concrete diversion structure, about 25 feet high; (2) Two new penstocks, 60 inches in diameter and 2,000 foot long; (3) a rehabilitated powerhouse with an installed capacity of 3,750 kw; (4) a tailrace canal, 2,500 feet long, 8 feet wide and 4 feet deep; (5) a new 2,000-foot-long tranmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 16,200,000 KWh.

k. Purpose of Projects: Project energy would be sold to local municipalities or the local power 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. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $35,000.

7 a. Type of Application: Preliminary Permit.

b. Project No: 9239-000.

c. Date Filed: May 28, 1985.

d. Applicant: Palisade Associates.

e. Name of Project: Palisade Pipeline Hydro Project.

f. Location: On Six Mile Creek in Sanpete County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would utilize Palisade Dam, Reservoir and Pipeline owned by the Gunnison Irrigation Company and would consist of: (1) An existing earthfill dam, about 55 feet high; (2) a reservoir with a total capacity of 1,800 acre-feet; (3) an existing pipeline/penstock, 24 inches in diameter and 5,620 feet long; (4) a new powerhouse with an installed capacity of 250kw; (5) a tailrace; (6) a new transmission line, about 3,000 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,036,000 Kwh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local Power 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. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $15,000.

8 a. Type of Application: Preliminary Permit

b. Project No: 9240-000.

c. Date filed: May 28 1985.

d. Applicant: Salt Lake Associates.

e. Name of Project: G.S.L. Causeway Hydro Project.

f. Location: On Great Salt Lake in Box Elder County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would be located on both lands of the State of Utah and the Southern Pacific Railroad and would consist of: (1) A concrete diversion structure, about 15 feet high, at a breach in the Southern Pacific Causeway; (2) a canal, about 50 feet wide and 1,000 feet long; (3) a new powerhouse with an installed capacity of 1,500 kw; (4) a tailrace; (5) a new transmission line, about 2,000 feet long; and (6) appurtenant facilities. The project would utilize flows from the south end of Great Salt Lake to the north end. The Applicant estimates that the average annual energy output would be 4,936,000 kwh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power 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. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $43,000.

9 a. Type of Application: Preliminary Permit

b. Project No: 9240-000.

c. Date filed: May 28 1985.

d. Applicant: City Creek Associates.

e. Name of Project: City Creek Hydro Project.

f. Location: On City Creek in Salt Lake County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would be located on both lands of the State of the Wasatch National Forest and Salt Lake City, Utah, and would would consist of : (1) A new 5-foot-high concrete diversion structure on City Creek; (2) a new pipeline penstock, 24 inches in diameter and 9,750 feet

long; (3) a new powerhouse with an installed capacity of 1,500 kw; (4) a tailrace to City Creek; (5) a new underground transmission line, about 1,000 feet long; (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 4,136,000 kwh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power 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. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $16,230.

10 a. Type of Application: Preliminary Permit.

b. Project No: 9265–000.

c. Date Filed: June 3, 1985.

d. Applicant: Fairview Associates.

e. Name of Project: Cottonwood Creek.

f. Location: On Cottonwood Creek in Sanpete County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mike Graham, President, G.W.P, 484 East 300 North, Manti, UT 84642.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would be located both on lands of the Manti-LaSal National Forest and Fairview City, Utah, and would consist of: (1) A new concrete diversion structure, about 5 feet high; (2) a new pipeline penstock, 12 inches in diameter and 8,750 feet long; (3) a new powerhouse with an installed capacity of 250kw; (4) a tailrace to Cottonwood Creek; (5) a new transmission line, about 1,000 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,836,000 Kwh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

1. 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 to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $42,000.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 9311–000.

c. Date Filed: July 2, 1985.

d. Applicant: Hood River #1 Associates.

e. Name of Project: Hood River #1.

f. Location: On the West Fork Hood River, within Mt. Hood National Forest in Hood River County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Jordan Walker, 484 East 300 North, Manti, UT 84624.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 35-foot-long concrete diversion dam with the crest at elevation 1,200 feet; (2) and 11,600-foot-long penstock; (3) a surge tank; (4) a powerhouse at elevation 1,040 feet containing a generating unit reated at 1,350 kW producing an average annual output of 7.77 GWh; and (5) a 1,850-foot-long, 12–kV transmission line connecting to existing transmission lines.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-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. Applicant has stated that no new roads are necessary to conduct the studies. The estimated cost of permit activities is $65,000.

k. Purpose of Project: To produce power for sale to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

12 a. Type of application: Preliminary Permit.

b. Project No.: 9315–000.

c. Date Filed: July 2, 1985.

d. Applicant: Sheep Falls Associates.

e. Name of Project: Sheep Falls.

f. Location: On the Henry's Fork River, within Targhee National Forest in Fremont County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Jordan Walker, 484 East 300 North, Manti, UT 84642.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 120-foot-long concrete diversion dam at streambed elevation 5,830 feet; (2) a 100-foot-long inlet structure; (3) a 12-foot-diameter, 1,700-foot-long tunnel; (4) a 9-foot-deep, 28-foot-wide, 2000-foot-long lined canel; (5) a 12-foot-diameter, 150-foot-long penstock; (6) a powerhouse at elevation 5,775 feet containing four generating units with a total rated capacity of 4,150 kW producing an average annual output of 18.17 GWh; and (7) an 11,000-foot-long, 44-kV transmission line connecting to an existing line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-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. Applicant has stated that no new roads are necessary to conduct the studies. The estimated cost of permit activities is $23,750.

k. Purpose of Project: To produce power for sale to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

13 a. Type of application: Preliminary Permit.

b. Project No.: 9320–000.

c. Date Filed: July 3, 1985.

d. Applicant: City of Riveside Public Utilities Department.

e. Name of Project: Riverside Canal Generation Station.

f. Location: On domestic water system conduit in Riverside County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred Kray, Public Utilities Director, City of Riverside, Public Utilities Department, 3900 Main Street, Riverside, CA 92522.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed project would utilize Applicant's existing Riverside Canal and consist of: (1) A power intake at elevation 920 feet; (2) a 30-inch-diameter, 260-foot-long pipe; (3) a powerhouse containing a single generating unit operating under a head of 25 feet with a total installed capacity of 20 kW; (4) a tailrace at elevation 885 feet; and (5) a 200-foot-long, 480-volt transmission line connecting with Applicant's existing electrical distribution system. The project power would be utilized to satisfy Applicant's needs.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility

environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $25,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

14 a. Type of Application: Preliminary Permit.

b. Project No: 9321–000.

c. Date Filed: July 3, 1985.

d. Applicant: City of Riverside Public Utilities Department.

e. Name of Project: Arlington Generation Station.

f. Location: On domestic water system conduit in Riverside County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Fred Kray, Public Utilities Director, City of Riverside, Public Utilities Department, 3900 Main Street, Riverside, California 92522.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed project would utilize Applicant's existing domestic water supply system between its Campbell reservoir and a major water system zone pipeline and consist of: (1) A power intake at elevation 1,600 feet; (2) a 30-inch-diameter, 1,060-foot-long pipe; (3) a powerhouse containing a single generating unit operating under a head of 400 feet with a total installed capacity of 450 kW; (4) a tailrace at elevation 1200 feet; and (5) a 200-foot-long, 4-kV transmission line connecting with Applicant's existing electrical distribution system. The project power would be utilized to satisfy Applicant's needs.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC licenses. Applicant estimates that the cost of the studies under permit would be $25,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9; B, C and D2.

15 a. Type of Application: Preliminary Permit.

b. Project No: 9322–000.

c. Date Filed: July 3, 1985.

d. Applicant: City of Riverside Public Utilities Department.

e. Name of Project: Gage-Linden Generating Station.

f. Location: On domestic water system conduit in Riverside County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred Kray, Public Utilities Director, City of Riverside, Public Utilities Department, 3900 Main Stret, Riverside, California 92522.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed project would utilize Applicant's existing domestic water supply system between Gage transmission line and Linden reservoir and consist of: (1) A power intake at elevation 1,025 feet; (2) a 36-inch-diameter, 2,600-foot-long pipe; (3) a powerhouse containing a single generating unit operating under a head of 20 feet with a total installed capacity of 59 kW; (4) a tailrace at elevation 885 feet; and (5) a 200-foot-long, 4-kV transmission line connecting with the Applicant's existing electrical distribution system. The project power would be utilized to satisfy Applicant's needs.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $25,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 9333–000.

c. Date Filed: July 5, 1985.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: Cochrane Dam.

f. Location: On the Charles River in Norfolk County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John Anderson, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, MA 01803.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 8-foot-high, 250-foot-long concrete and fitted stone gravity dam; (2) a reservoir with a surface area of 10 acres, a storage capacity of 40 acre feet, and a normal water surface elevation of 105 feet USGS; (3) an existing concrete intake structure; (4) an existing concrete powerhouse containing two generating units with a capacity of 100 kW each for a total installed capacity of 200 kW; (5) a new transmission line, 200 feet long; and (6) appurtenant facilities. The Applicant estimates the average annual generation would be 800,000 kWh. The existing dam is owned by the Metropolitan District Commission, Boston, Massachusetts.

k. Purpose of Project: Project power would be sold to the Boston Edison 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. Applicant seeks issuance of a preliminary permit for a period 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $11,000.

17 a. Type of Application: Preliminary Permit.

b. Project No.: 9376–000.

c. Date Filed: August 1, 1985.

d. Applicant: Ernest R. Field and Robert A. Bernhard.

e. Name of Project: Mississinewa Dam Hydro Project.

f. Location: On the Mississinewa River near Peru, Miami County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John E. Fisher, 525 W. Washington Street, South Bend, IN 46601.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed would utilize the U.S. Corps of Engineers' Mississinewa dam and reservoir, and would consist of: (1) A proposed 16-foot-diameter steel penstock approximately 298 feet long;. (2) a new powerhouse that would be located west of the existing outlet channel and that would house a single 4-MW generator; (3) a proposed 60-foot-wide and 100-foot-long tailrace; (4) a new 12.5-kV transmission line approximately 500 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 21,000 MWh. All project energy generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $110,000.

18 a. Type of Application: Preliminary Permit.

b. Project No: 9392–000.

c. Dated Filed: August 6, 1985.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Felsenthal Lock & Dam.

f. Location: On the Ouachita River in Union County, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: G. William Miller, President, Independence Electric Corporation, 919–18th Street, NW., Suite 750, Washington DC 20006 and Joel L. Green, Rose, Schmidt, Chapman, Duff & Hasley, 1825 Eye Street, NW., Suite 300, Washington, DC 20006.

i. Comment Date: November 12, 1985.

j. Description of Project: The Applicant would utilize an existing dam and lands under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) A proposed 100-foot-wide by 650-foot-long intake channel; (2) a proposed powerhouse containing two generating units rated at 2,500 kW each for a total installed capacity of 5,000 kW; (3) a proposed 100-foot-wide by 600-foot-long tailrace channel; (4) a proposed 10-mile-long, 161-kV transmission line; and (5) appurtenant facilities.

The estimated average annual energy output for the project is 18,000 000 kWh.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

l. 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 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $50,000.

19 a. Type of Application: Minor License.

b. Project No: 6972–001.

c. Dated Filed: November 8, 1984.

d. Applicant: Power Resources Development Corporation.

e. Name of Project: Hollow Dam.

f. Location: On the West Branch of the Oswegatchie River in St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Roger P. Swanson, 66 East Fourth Street, P.O. Box 2027, Oswego, New York 13126.

i. Comment Date: November 8, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) The 87.5-foot-long and 21-foot-high concrete Hollow Dam (now breached) with a spillway crest elevation of 631 feet mean sea level; (2) an impoundment with a surface area of 66.5 acres at spillway crest elevation; (3) an existing forebay and powerhouse at the south side of the dam with 2 new 500-kW turbine-generator units; (4) an existing 34.5-kV short transmission line; and other appurtenances. Applicant estimates an average annual generation of 5,000,000 kWh. Existing facilities are owned by Mr. Robert Sullivan, of Gouverneur, New York.

k. Purpose of Project: Project energy would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraph: A3, A9, B, C, and D1.

20 a. Type of Application: Major License (5MW or Less).

b. Project No: 7233–001.

c. Date filed: February 28, 1965 and supplemented July 1, 1985.

d. Applicant: Aero Construction, Inc.

e. Name of Project: Aberdeen Lock and Dam Hydro Project.

f. Location: On the Tombigbee River near Aberdeen, Monroe County, Mississippi.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Ralph L. Laukhuff, Jr., P.O. Box 64844, Baton Rouge, LA 70896.

i. Comment Date: November 12, 1985.

j. Description of Project: The porposed run-of-river project would utilize the existing U.S. Army Corps of Engineers' Aberdeen Lock and Dam, and existing 700-foot-long and 50-foot-wide diversion channel. The proposed hydrogenerating facility, located entirely in the diversion channel, would consit of: (i) A proposed intake structure with trash racks and hydraulic slide gates; (2) a new powerhouse that would be located on the left bank of the eastern embankment, and that would house three 1,200-kW generators for a total installed capacity of 3,600 kW; (3) a new 12.47-kV transmission line; and (4) appurtenant facilities.

The lands of the United States affected by the porject would total 14.7 acres under the control of the U.S. Army Corps of Engineers. The Applicant estimates that the average annual generation would be 18,250 MWh. Project energy would be sold to TVA through its distributor, the City of Aberdeen. The license application was filed during the term of the Applicant's preliminary permit, Project No. 7233.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

20 a. Type of Application: Preliminary Permit.

b. Porject No: 9271–000.

c. Date Filed: June 3, 1985.

d. Applicant: Cook Electric, Inc.

e. Name of Project: Upper West Fork Hood River.

f. Location: On West Fork Hood River in Hood River County, Oregon, partially within the Mt. Hood National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)—825(r).

h. Contact Person: Mr. Dale Hatch and Mr. Warren P. Chapman, Cook Electric, Inc., P.O. Box 1071, Twin Falls, Idaho 83303–1071.

i. Comment Date: November 12, 1985.

j. Description of Project: The porposed project would consist of: (1) A 6-foot-high, 32–foot-wide reinforced concrete intake structure at elevation 1,7600 feet, consisting of a 66-inch gate valve, trash rack, remote volume sensor, fish ladder and screens; (2) a 16-inch-diameter, 6,330-foot-long steel penstock; (3) powerhouse containing four generating units having a combined rating of 2,700 kW, with a total average annual energy output of 18,571,240 kWh, operating under a head of 200 feet; (4) a tailrace; (5) a switchyard containing transformers and switchgear equipment; and (6) a 39,960-foot-long, 12.5-kV transmission line tying into an existing Portland General Electric line.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 36 month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $36,250.

k. Purpose of Project: Project power would be sold to Portland General Electric.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

22 a. Type of Application: Preliminary Permit.

b. Project No.: 9292-000.

c. Date Filed: June 13, 1985.

d. Applicant: Michael Russo.

e. Name of Project: Shannock.

f. Location: Pawcatuck River in Washington County, Rhode Island.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Michael Russo, 50 Main Street, Shannock, RI 02875.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would consist of: (A) The upper Horseshoe site consisting of: (1) An existing 10-foot-high, 90-foot-long stone dam and forebay; (2) a reservoir at elevation 94 feet M.S.L. with negligible storage capacity; (3) an existing powerhouse containing a single 150-kW turbine-generator unit to be rehabilitated; (4) a 1 mile-long, 13.8-kV transmission line; and (5) appurtenant facilities.

(B) The lower Shannock site consisting of: (1) An existing 5-foot-high, 60-foot-long rock-filled timber crib dam and forebay; (2) an existing powerhouse containing a single 100-kW turbine-generator to be rehabilitated; (3) a reservoir at elevation 72 feet M.S.L. with negligible storage capacity; (4) a 1.5-mile-long 13.8-kV transmission line; and (5) appurtenant facilities. The project would produce up to 1,000,000 kWh annually. Energy produced at the project would likely be sold to a local utility. The project dams are owned by New England Preservation Associates and the Fleet National Bank.

k. 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 36-months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $15,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

23 a. Type of Application: Preliminary Permit.

b. Project No.: 9316-000.

c. Date Filed: July 2, 1985.

d. Applicant: Polson Associates.

e. Name of Project: Polson Associates.

f. Location: On Lion Creek, in Flathead National Forest in Lake County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Jordan Walker, 484 East 300 North, Manti, UT 84642. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 20-foot-long native rock diversion dam with the crest at elevation 4,200 feet; (2) a 14-inch-diameter, 8,500-foot-long penstock; (3) a powerhouse at elevation 3,680 feet containing a generating unit rated at 314 kW producing an average annual output of 1,900 MWh; (4) a 60-foot-long tailrace; and (5) a 16,500-foot-long, 14.44-kV transmission line connecting to an existing Missoula Electric Coop, Inc. line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-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. Applicant has stated that no new roads are necessary to conduct the studies. The estimated cost of pemit activities is $15,000.

k. Purpose of Project: To produce power for sale to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

24 a. Type of Application: Preliminary Permit.

b. Project No.: 9383-000.

c. Date Filed: August 1, 1985.

d. Applicant: Peru City Associates.

e. Name of Project: Mississinewa Hydro Project.

f. Location: On the Mississinewa River near Peru, Miami County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, NW, #600, Washington, DC 20005.

i. Comment Date: November 4, 1985.

j. Competing Application: Project No. 9376, Date Filed: August 1, 1985, Comment Due Date: November 4, 1985.

k. Description of Project: The proposed project would utilize the U.S. Corps of Engineers' Mississinewa dam and reservoir, and would consist of: (1) A proposed 6-foot-diameter steel penstock approximately 200 feet long; (2) a new powerhouse that would be located west of the existing outlet channel and that would house a 4.1-MW generator; (3) a proposed 10-foot-wide and 100-foot-long tailrace; (4) a new 12.5-kv transmission line approximately 400 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 21.5 GWh. All project energy generated would be sold to a local utility company.

l. This notice also consists of the following standard paragraphs: A8, B, C, D2.

m. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $145,000.

25 a. Type of Application: Exemption (5 MW or Less).

b. Project No.: 9102-000.

c. Date Filed: April 10, 1985.

d. Applicant: Donald R. Heald.

e. Name of Project: Holmes Mill.

f. Location: Passagassawakeag River in Waldo County, Maine.

g. Filed Pursuant to: Energy Security Act of 1980 section 408 (16 U.S.C. 2705 and 2708).

h. Contact Person: Mr. Joseph Sawyer, 26 Harden Avenue, Camden, ME 04843.

i. Comment Date: November 4, 1985.

j. Description of Projects: The proposed project would consist of: (1) Rehabilitating an existing 15-foot-high, 125-food-long concrete dam owned by the Applicant; (2) an existing reservoir with a surface area of 12 acres and negligible storage capacity with a water surface elevation of 123 feet MSL; (3) a proposed 5-foot-diameter, 160-foot-long penstock; (4) a proposed powerhouse containing a generating unit with a rated capacity of 70 kW; and (5) a proposed 150-foot-long transmission line tying into the existing Central Maine Power Company System. The Applicant estimate a 450,000 kWh average annual energy production.

k. 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.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

26 a. Type of Application: Preliminary Permit.

b. Project No.: 8332-000.

c. Date Filed: June 1, 1984.

d. Applicant: City of Ellensburg, Washington.

e. Name of Project: 1146 Wasteway Hydroelectric Project.

f. Location: On lands managed by the Bureau of Reclamation, on Kittitas Reclamation District Main canal and Yakima River, near Cle Elum, in Kittitas County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. Contact Person: Douglas E. Williams, City Manager, City of Ellensburg, Ellensburg, Washington 98926.

i. Comment Date: November 4, 1985.

j. Description of Project: The proposed project would consist of: (1) A diversion structure consisting of an existing 10-foot-long by 10-foot-wide canal control gate and intake structure, located on the Kittitas Reclamation District Main Canal at Canal Station 1165+30; (2) a 1,200-foot-long, 4-foot-diameter welded steel penstock; (3) a powerhouse at Yakima River mile 173.7 containing two generators having a combined capacity of 3.6 MW and an annual energy production of 6.94 GWh; (4) a 100-foot-long trailrace to Yakima River; and (5) a 0.5-mile-long, 115-kV transmission line to an existing Puget Sound Power and Light Company line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-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. Applicant has stated that no new roads are necessary. The estimated cost of permit activities is $90,000.

k. Purpose of Project: Power will be utilized locally or marketed to utilities and industries in the northwest.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development 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 development 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.

A4. Development Application—Public notice of the filing of the initital development 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 development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.26.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

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 and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

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 development application (specify which type of 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 CFR 385.210, 385.211, 385.214. 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, NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-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 Applicants 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 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 are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife 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 otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide 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: October 2, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–23951 Filed 10–7–85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL85–27–000 et al.]

Donald Fred Jenni et al.; Hydroelectric 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:

1 a. Type of Application: Declaration of Intention.

b. Project No: EL85–27–000.

c. Date Filed: April 25, 1985.

d. Applicant: Donald Fred Jenni.

e. Name of Project: Hanover Hydro.

f. Location: At an existing artesian well in Fergus County, Montana near the town of Lewiston.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person: Mr. Donald Fred Jenni, Hanover Hydro, Route 2, Box 2228, Lewiston, Montana 59457.

i. Comment Date: November 26, 1985.

j. Description of Project: The proposed project would consist of: (1) A well head pipe structure at an approximate elevation of 3,985 feet; (2) a 16-inch-diameter, 2,650-foot-long steel pipeline; (3) a powerhouse containing one generating unit with a rated capacity of 240 kW; and (4) a transmission line tying into a Montana Power Company line. Flows from the powerhouse would discharge into Big Spring Creek. The estimated average annual energy production would be 2 GWh.

k. Purpose of Project: Project power would be sold to Montana Power Company.

l. This notice also consists of the following standard paragraphs: B, C, D1.

2 a. Type of Application: Major License.

b. Project No: 6488–004.

c. Date Filed: November 13, 1984.

d. Applicant: Alternate Energy Resources, Inc.

e. Name of Project: Big Mosquito Creek Water Power Project.

f. Location: On Big Mosquito Creek within Tahoe National Forest in Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. H.L. "Pete" Childers, 9200 Shanley Lane, Auburn, California 95603.

i. Comment Date: November 25, 1985.

j. Description of Project: The proposed project would consist of: (1) A catch basin, cut into the bedrock, 5 feet deep, 4 feet wide and 20 feet long, at elevation 4100 feet; (2) a 24-inch-diameter, 1,500-foot-long low pressure pipe; (3) a 24-inch-diameter, 5,000-foot-long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 2,000 kW to operate under a head of 1,540 feet; and (5) a 1.0-mile-long, 12.5-kV transmission line will connect the project with an existing Placer County Water Agency's substation south of the project.

k. Purpose of Project: The project's estimated annual generation of 3.78 million kWh will be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

3 a. Type of Application: Major License.

b. Project No: 7393–002.

c. Date Filed: November 2, 1984.

d. Applicant: Alpine Power Company.

e. Name of Project: Lower Bagley Creek Hydroelectric.

f. Location: On Bagley Creek, within Mt. Baker—Snoqualmie National Forest, near Glacier, Whatcom County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William L. Devine, Alpine Power Company, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, Washington 98266.

i. Comment Date: November 15, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 40-foot-long concrete diversion structure at elevation 2,640 feet; (2) a 30-inch-diameter, 7,400-foot-long penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 1,500 kW at an operating head of 540 feet; (4) a switchyard adjacent to the powerhouse; (5) a 150-foot-long tailrace; and (6) a 1-mile-long, 34-kV transmission line connecting to a Puget Sound Power and Light transmission line. The average annual energy generation is estimated to be 5 million kWh. The estimated cost of the project would be 3.4 million dollars.

This application has been accepted for filing as of June 22, 1983, the submittal date of the Applicant's originally accepted exemption application pursuant to Snowbird, Ltd. et al., 28 FERC ¶ 61,062, issued July 18, 1984.

k. Purpose of Project: The project power would be sold to a nearby utility, municipal entity or industry.

l. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development 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 development application no later than 60 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

m. This notice also consists of the following standard paragraphs: A9, B, C and D1.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 9410-000.

c. Date Filed: August 20, 1985.

d. Applicant: STS Energenics Ltd., Inc.

e. Name of Project: French Landing Dam.

f. Location: On the Huron River at Belleville Lake in Wayne County Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Granville Smith, STS Energenics, Ltd., Inc., 1725 K Street N.W., Washington, DC 20006 and Mr. Mark J. Sundquist, STS Consultants Ltd., 3340 Ranger Road, Lansing, Michigan 48900.

i. Comment Date: November 25, 1985.

j. Description of Project: The Applicant would utilize an existing dam owned by the Township of Van Buren, Michigan. The proposed project would consist of: (1) The dam which is approximately 830 feet long and 38 feet high; (2) an existing powerhouse, which is an integral part of the dam, containing one proposed generating unit rated at 1,700 kW; (3) an existing reservoir with a surface area of 1,270 acres and a storage capacity of 17,780 acre-feet at power pool elevation of 651.4 feet N.G.V.D.; (4) an existing 110-foot-long outlet channel; (5) a proposed 300-foot-long, 4,600 volt transmission line; and (6) appurtenant facilities. The estimated average annual energy output for the project is 8,500,000 kWh.

k. Purposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $39,000.

l. Purpose of Project: The energy produced at the project would be sold to the Detroit Edison Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9429-000.

c. Date Filed: September 4, 1985.

d. Applicant: Guttenburg Partners, Ltd.

e. Name of Project: Mississippi Lock and Dam #10 Hydro Project.

f. Location: On the Mississippi River near Guttenburg, Clayton County, Iowa and Praire du Chien, Grant County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, NW., #600, Washington, DC 20005.

i. Comment Date: November 22, 1985.

j. Description of Project: The proposed project would utilize the U.S. Corps of Engineers' Mississippi Lock and Dam #10, and would consist of: (1) a proposed 10-foot-diameter penstock approximately 125 feet long; (2) a new powerhouse that would be located east of the existing outlet channel and would house one 10-MW generator; (3) a proposed 30-foot-wide and 47-foot-long tailrace; (4) a new 64.5-KV transmission line approximately 1250 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 48.5 GWh. All project energy generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

l. Purposed 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 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $105,000.

6 a. Type of Application: Major License (Under 5 MW).

b. Project No: 6873-001.

c. Date Filed: April 3, 1984.

d. Applicant: STS Energenics Ltd.

e. Name of Project: Southside II.

f. Location: Southside Canal at Stations 349+05 to 375+42, near Collbran, in Mesa County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Granville J. Smith II, STS Energenics Ltd., 1725 K Street, NW., Suite 1112, Washington, D.C. 20006, (202) 463-8620.

i. Comment Date: November 25, 1985.

j. Description of Project: The proposed project would utilize the U.S. Bureau of Reclamation's Collbran Project—Southside Canal and would consist of: (1) A vertical intake at Station 349+05, at the end of an existing tunnel; (2) a 50-inch-diameter, 2,637-foot-long penstock; (3) a powerhouse, located at Station 375+42, containing a single Francis turbine-generator unit with a rated capacity of 3.219 MW and producing an estimated average annual generation of 6.32 GWh; (4) a tailrace returning flows to the Southside Canal; and (5) A 3-mile-long, 12.47-kV transmission line to interconnect the project to a distribution line proposed under FERC Project No. 3816. The project would be partially located on Bureau of Reclamation and Bureau of Land Management lands. Project power would be sold to Public Service Company of Colorado. Applicant estimates total project cost at $2,055,000.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

7 a. Type of Application: Major License (Over 5MW).
b. Project No.: 3110–002.
c. Date Filed: August 29, 1983.
d. Applicant: Eugene Water & Electric Board.
e. Name of Project: Sunnyside.
f. Location: At River Mile 3.16 on the Middle Santiam River near the town of Sweet Home in Linn County, Oregon, and affecting U.S. lands under the administration of the Corps of Engineers.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).
h. Contact Person: Keith Parks, 500 East 4th Avenue, Eugene, OR 97440.
i. Comment Date: November 25, 1985.
j. Description of Project: The proposed run-of-river project would consist of: (1) A 120-foot-high, 800-foot-long concrete gravity and earth-embankment dam having a 100-foot-long spillway section with crest elevation 655 feet surmounted by two 50-foot-long by 49-foot-high tainter gates and having a concrete intake structure; (2) a reservoir having a surface area of 63.5 acres and a gross storage capacity of 2,160 acre-feet at normal pool elevation 702 feet; (3) a 20-foot-diameter, 60-foot-long steel genstock and a 30-inch-diameter steel penstock; (4) a powerhouse containing a generating unit rated at 21,800-kW operated at a net head of 72 feet and at a flow of 4,760 cfs and containing a generating unit rated at 260-kW operated at a net head of 76 feet and at a flow of 50 cfs; (5) a tailrace; (6) a 13.8/115-kV transformer; (7) a 1.52-mile long, 115-kV transmission line; (8) an access road; (9) an upstream migratory fish collection facility; and (10) a downstream migratory fish transportation facility. Applicant would also relocate a 5,290-foot-long section of the Quartzville Road. The capacity and energy production of the project would be directly related to and dependent upon the releases from the Corps of Engineers' Green Peter Dam and Reservoir located upstream of the proposed project. Applicant estimates that the average annual generation would be 62,233,400-kWh. The total construction cost of the project would be $36,642,800 in 1985 dollars. The application was filed during the term of Applicant's preliminary permit.
k. Purpose of Project: The net power generated by the Sunnyside Project will be used to serve the power requirements of Eugene Water & Electric Board customers or will be offered to the Bonneville Power Administration for acquisition.
l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

8 a. Type of Application: Minor License.
b. Project No.: P–7746–001.
c. Date Filed: March 19, 1985.
d. Applicant: Geoffrey Shadroui.
e. Name of Project: Stevens Branch.
f. Location: On the Stevens Branch of the Winooski River near Barre City, in Washington County, Vermont.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Geoffrey Shadroui, 121 Maple Avenue, Barre, VT 05641.
i. Comment Date: November 22, 1985.
j. Description of Project: The project would consist of: (1) An existing dam with an overall length of 214 feet and a maximum height of 12 feet; (2) an existing 0.18-acre reservoir with a storage capacity of 1.4 acre-feet at the normal water surface elevation of 650.5 feet M.S.L.; (3) a proposed 400-foot-long, 3.5-foot-diameter penstock; (4) a proposed powerhouse to contain an installed generating capacity of 130 kW; (5) a proposed 200-foot-long, 480V transmission line; (6) an existing 1,000-foot-long, 15-foot-wide, dirt access road; (7) an existing 150-foot-long, 12-foot-wide, access road; (8) an existing 75-foot-long, 6-foot-wide, suspended bridge; and (9) appurtenant facilities. The existing dam is owned by the City of Barre, Vermont. The Applicant estimates that the average annual energy generation will be 450 MWh. The Applicant anticipates that the power produced will be sold to Green Mountain Power Corporation.
k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.
9 a. Type of Application: Major License.
b. Project No: 8909–000.
c. Date Filed: January 30, 1985 as supplemented.
d. Applicant: Idaho Renewable Resources, Bonneville Pacific Corporation and Big Wood Canal Company.
e. Name of Project: Dietrich Drop Water Power.
f. Location: On Milner Gooding Canal owned by the US Bureau of Reclamation and operated by the Big Wood Canal Company, near Dietrich, in Lincoln County, Idaho.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Jay R. Bingham, Bingham Engineering, 165 Wright Brothers Drive, Salt Lake City, Utah 84116.
i. Comment Date: November 18, 1985.
j. Description of Project: The proposed project would consist of: (1) A new concrete intake Structure at the existing check control structure; (2) a 1750-foot-long, 138-inch-diameter steel penstock; (3) a surge tower overflow; (4) a powerhouse containing a single generating unit with an installed capacity of 4800 kW; (5) a tailrace discharging to an existing canal which will be deepened for a length of 1,550 feet; (6) a switchyard located adjacent to the powerhouse; and (7) 3.5-mile-long, 46-kV transmission line connecting to an existing substation. The estimated average annual generation would be 22.2 million kWh. The project cost is estimated to be 6.1 million dollars.
k. Purpose of Project: The project power will be sold to Idaho Power Company.
l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.
10 a. Type of Application: Preliminary Permit.
b. Project No.: 9403–000.
c. Date Filed: August 13, 1985.
d. Applicant: Hoskin Diversified Industries.
e. Name of Project: HDI Mascoma Dam.
f. Location: On the Mascoma River in Grafton County, New Hampshire.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).
h. Contact Person: Garlan E. Hoskin, Hoskin Diversified Industries, 85 Mechanic Street, Lebanon, NH 03766.
i. Comment Date: November 15, 1985.
j. Description of Project: The proposed project would consist of: (1) An existing 21.7-foot-high and 123-foot-long concrete dam with an existing spillway crest elevation of 502.7 msl; (2) an existing reservoir with a negligible size and storage capacity; (3) an existing 10.5-foot-wide and 8-foot-high head gate which transports flows directly to one turbine/generator which is housed by a powerhouse which is part of a large mill with an installed capacity of 150 kW; (4) an existing tailrace approximately 10 feet long; (5) three existing 80 volt transmissions lines 210 feet long; and (6) appurtenant facilities. The estimated average annual energy produced by the project would be 750,000 kWh operating under a net hydraulic head of 14 feet. The owner of the dam is Mr. Garlan E. Hoskin.
k. Purpose of Project: The project power would be sold to the Granite State Electric Company.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.
m. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36

months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 9232–000.

c. Date Filed: May 28, 1985.

d. Applicant: Vernal Associates.

e. Name of Project: Steinaker Hydro Project.

f. Location: On Ashley Creek in Uintah County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: November 15, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Steinaker Dam and Reservoir and would consist of: (1) A new 78-inch-diameter penstock utilizing the existing outlet works; (2) a new powerhouse with an installed capacity of 500 kW; (3) a tailrace; (4) a new 3,000-foot-long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,836,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under this Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $17,000.

12 a. Type of Application: Major License.

b. Project No: 7194–001.

c. Date Filed: February 21, 1985.

d. Applicant: Birch Power Company.

e. Name of Project: Birch Creek.

f. Location: On Birch Creek in Clark County, Idaho, and affecting U.S. lands under the jurisdictions of the Department of Energy and the Bureau of Land Management.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ted S. Sorenson, P.E., 550 Linden Drive, Idaho Falls, ID 83401.

i. Comment Date: November 18, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 10-foot-high earth-fill diversion structure; (2) a small reservoir having normal water surface elevation 5,671.0 feet; (3) an 8,200-foot-long, 25-foot-wide trapezodial-shaped feeder canal; (4) a headworks structure and a 7,985-foot-long return channel to Birch Creek; (5) a 26,700-foot-long, 25-foot-wide trapezodial-shaped canal; (6) a screened, concrete, concrete intake structure; (7) a 15,900-foot-long, 48-inch-diameter underground steel pipeline/penstock; (8) a powerhouse containing a generating unit rated at 2,850-kW operated at a head of 532 feet and at a flow of 75 cfs; (9) a tailrace to the Reno Ditch having water surface elevation 5,122.0 feet; (10) a 37,200-foot-long outfall channel to the Birch Creek Sink; (11) a 2,400-v/12.47–kV transformer; and (12) a 1,700-foot-long, 12.47–kV transmission line.

The application was filed during the term of Applicant's preliminary permit. Applicant estimates that the average annual energy generation would be 15,500,000 kWh and that the total capital cost would be $3,600,000 in 1985 dollars.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

13a. Type of Application: Minor License Under 5 MW.

b. Project No: P–9277–000.

c. Date Filed: June 6, 1985.

d. Applicant: Riverside Dam, Inc.

e. Name of Project: Riverside Hydro Power.

f. Location: On the Mascoma River in Grafton County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Stephen L. Whitman, Riverside Dam, Inc., 10 Water Street, Lebanon, NH 03766.

i. Comment Date: November 15, 1985.

j. Description of Project: The proposed project would consist of: (1) The redevelopment of the existing 7-foot-high and 145-foot-long concrete dam with an existing spillway crest elevation of 539.5 MSL; (2) an existing 0.2-acre surface reservoir with a storage capacity of 0.6 acre-feet with a maximum surface elevation of 540.5 MSL; (3) a new 75-foot-long and 8-foot-diameter steel penstock; (4) an existing concrete and brick powerhouse containing one turbine/generator unit with an installed capacity of 400 kW; (5) a proposed 25-foot-wide and 50-foot-long tailrace channel; (6) a new 13.2–kV transmission line approximately 100 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 1,750,000 kWh operating under a net hydraulic head of 21 feet.

k. Purpose of Project: Project power will be sold to the Granite State Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

14 a. Type of Application: Major License.

b. Project No.: 6568–001.

c. Date Filed: October 31, 1984.

d. Applicant: Delmer Wagner.

e. Name of Project: Grave Creek Water Power Project.

f. Location: On Grave Creek, partially within US lands administered by BLM, near Grants, in Josephine County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–835(r).

h. Contact Person: Mr. Delmer Wagner, Energy Planning Associates, 3182 SE Timberlake Drive, Hillsboro, Oregon 97123.

i. Comment Date: November 15, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 30-foot-long concrete diversion structure at elevation 2,240 feet; (2) a 5,600-foot-long, 48-inch-diameter penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 4,000 kW at a design head of 510 feet; and (4) a 730–foot-long, 12–kV transmission line connecting to Pacific Power and Light Company's existing transmission line. The average annual energy generation is estimated to be 11.1 million kWh. The estimated cost of the project would be 5.8 million dollars.

k. Purpose of Project: The project power will be sold to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

15 a. Type of Application: Minor License.

b. Project No: 5871–003.

c. Date Filed: November 9, 1984 as supplemented.

d. Applicant: Columbus Development Corporation.

e. Name of Project: Stillwater River Power.

f. Location: On Stillwater River, near Columbus, in Stillwater County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Vernon W. Sanders, Columbus Development Corporation, Start Route 2, Box 26, Columbus, Montana 59019.

i. Comment Date: November 15, 1985.

j. Description of Project: The proposed project involves upgrading and expansion of the existing irrigation system and would consist of: (1) A new concrete headway structure replacing the existing headway structure at the Beartooth Hereford Ranch; (2) an existing 9,000-foot-long canal to be upgraded; (3) a 4,000-foot-long new canal; (4) a 900-foot-long, 72–inch-diameter steel penstock; (5) a powerhouse containing a single generating unit with an installed capacity of 1,000 kW; (6) a tailrace discharging into Stillwater River; (7) a substation located adjacent to the powerhouse; and (8) a 0.7-mile-long, 50–kV transmission line connecting to an existing Montana Power Company transmission line. The Applicant estimates that the average annual power production would be 5 million kWh. The project cost would be approximately $2,000,000.

This application has been accepted for filing as of July 18, 1983, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power, Co. et al., 28 FERC ¶ 61,061, issued July 18, 1984.

k. Purpose of Project: The project power will be sold to Montana Power Company.

l. This notice also consists of the following standard paragraphs: A9, B, C and D1.

16 a. Type of application: Major License.

b. Project No.: 8800–000.

c. Date Filed: December 12, 1984.

d. Applicant: Western Hydro Eletric, Inc.

e. Name of Project: Goose/Brundage Hydroelectric.

f. Location: On Goose and Brundage Creeks, within Payette National Forest, near Meadows, in Adams County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Donald J. White, Western Hydro Electric, Inc., 4702 Hillsboro Drive, Provo, Utah 84601.

i. Comment Date: November 25, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 30-foot-long conrete diversion structure on Brundage Creek at elevation 5,940 feet; (2) a 2,350-foot-long, 36-inch-diameter steel pipeline carrying flow to Goose Creek; (3) a 6-foot-high, 50-foot-long concrete diversion structure on Goose Creek; (4) an 11,600-foot-long, 42-inch-diameter steel penstock; (5) a powerhouse containing a single generating unit with an installed capacity of 3,856 kW at a design head of 925 feet; and (6) a 5,100-foot-long, 34.5–kV transmission line connecting to an existing Idaho Power Company transmission line. The average annual energy generation is estimated to be 14.62 million kWh. The estimated cost of the project would be 4.87 million dollars.

k. Purpose of Project: The project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

17 a. Type of application: Preliminary Permit.

b. Project No.: 9419–000.

c. Date Filed: August 26, 1985.

d. Applicant: JDJ Energy Comapny.

e. Name of Project: Riverton Hydro Project.

f. Location: On the Spring River near Lowell, Cherokee County, Kansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Doyle Jones, P.O. Box 225, Jones Mills, AR 72105.

i. Comment Date: November 21, 1985.

j. Description of Project: The proposed project would consist of (1) An existing dam approximately 470-feet-long and 40-feet-high; (2) an existing 525-acre reservoir having a storage capacity of 8,450 acre-feet at an elevation of 807 feet NGVD; (3) a new powerhouse housing two 1530–kW generators for a total installed capacity of 3060 kW; (4) a proposed 12.5–kV transmission line or equivalent; and (5) appurtenant facilities. The Applicant estimates that the average annual energy would be 14,650 MWh. The Applicant proposes to sell all project energy to Empire District Electric Company who is the owner of the dam and appurtenant facilities.

k.This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. 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 36 months during which time applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $20,000.

18 a. Type of Application: Minor License.

b. Project No.: 8894–000.

c. Date Filed: January 29, 1985.

d. Applicant: Fallon Hydro Inc.

e. Name of Project: Erie Canal Lock 33 Project.

f. Location: On the Erie Canal near the Town of Henrietta, Monroe County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Timothy R. Fallon, Fallon Hydro Inc., 3 Maplewood Point, Ithaca, NY 14850.

i. Comment Date: November 21, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 88-foot-long, 39-foot-high concrete gravity dam with an uncontrolled ogee center spillway section; (2) an impoundment having a surface area of 200 acres, a storage capacity of 2,000 acre-feet, and a normal water surface elevation of 512.5 feet msl; (3) an existing intake structure; (4) an existing powerhouse containing a proposed generating unit with an installed capacity of 360 kW; (5) an existing tailrace; (6) a proposed 750-foot-long 15–kV transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 1,200,000 kWh. the existing dam and project facilities are owned by the New York State Department of Transportation.

k. Purpose of Project: All energy produced would be sold to the Rochester Gas and Electric Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

19 a. Type of Application: Preliminary Permit.

b. Project No.: 9270–000.

c. Date Filed: June 3, 1985.

d. Applicant: Cook Electric, Inc.

e. Name of Project: Middle Fork Hood River.

f. Location: In Mount Hood National Forest, on the Middle Fork of the Hood River, in Hood River County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 725(a)–825(r).

h. Contact Person: Dale Hatch, Cook Electric, Inc., P.O. Box No. 1071, Twin Falls, Idaho 83303–1071.

i. Comment Date: November 25, 1985.

j. Description of Project: The proposed project would consist of: (1) A 72-inch-high inlet structure at elevation 2,520 feet; (2) a 17,495-foot-long, 60-inch-diameter penstock; (3) a powerhouse containing four generating units with a

combined capacity of 10,700 kW and an average annual generation of 67,454 MWh; and (4) a 7,920-foot-long transmission line.

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 and environmental feasibility studies and prepare an FERC license application at a cost of $68,000. No new roads would be constructed during the feasibility study. Core drilling would be conducted.

k. Purpose of Project: Project power would be sold to Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 9330-000.

c. Date Filed: July 5, 1985.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: Nonotucket Street Dam.

f. Location: On the Mill River, in the Town of North Hampton, Hampshire County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, MA 01803.

i. Comment Date: November 21, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 12-foot-high, 175-foot-long Nonotucket Street Dam; (2) an existing 3-acre reservoir with a normal maximum surface elevation of 235 feet USGS; (3) a proposed 100-foot-long, 42-inch-diameter steel penstock; (4) a proposed powerhouse which will contain an installed generating capacity of 75 kW; (5) an existing 15-foot-wide, 300-foot-long, dirt access road; (6) a proposed 75-foot-long, 35.4–kV transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 330 MWh. The Nonotucket Street Dam and appurtenant facilities are owned by the Pro Corp and Massachusetts Electric.

k. Purpose of Project: All project power generated would be sold to the Massachusetts Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope and Cost 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 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $5,500.

21 a. Type of Application: Major License (5MW or Less).

b. Project No.: 8646–001.

c. Date Filed: April 29, 1985.

d. Applicant: Robert Fackrell.

e. Name of Project: Mink Creek.

f. Location: On Mink Creek in Franklin County, Idaho near the town of Preston, within the Caribou National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Vernon Ravenscroft, Ms. Helen Chenoweth, Consulting Associates, Inc., P.O. Box 893, Boise, ID 83701.

i. Comment Date: November 22, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 280-foot-long rock rubble core diversion dam at elevation 5,830 feet; (2) a 40-foot-wide reinforced concrete spillway; (3) a 14-foot-high, 30-foot-long reinforced intake structure having a steel trashrack and two 6-foot by 6-foot roller gates to control the flow; (4) a 60-inch-diameter steel bypass pipe located adjacent to the penstock, to convey excess water back into the stream; (5) a 4-foot-diameter, 8,500-foot-long buried steel penstock bifuracting into a 24-inch-diameter and a 40-inch-diameter penstock terminating at two Francis turbines; (6) a 24-foot-wide, 30-foot-long metal powerhouse at elevation 5,443 feet containing one 2.75 MW generating unit with a total average annual energy output of 9,378,300 KWh, operating under a head of 365 feet; (7) a 500-foot-long earthen tailrace; (8) a six-mile long, 14–kV transmission line tying into an existing Utah Power & Light Company line. The estimated cost of the project is $2,400,000 in 1984 dollars.

k. Purpose of Project: Project power would be sold to Utah Power & Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development 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 development 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.

A4. Development Application—Public notice of the filing of the initial development 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 development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the intial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

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 compting preliminary permit and developemnt applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to

and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

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 development application (specify which type of 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 CFR 385.210, 385.211, 385.214. 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 NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–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 set to the Applicants 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.

D3 a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 fo 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 are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3 b. *Agency Comments*—The U.S. Fish and Wildlife 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 otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide 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: October 3, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–23953 Filed 10–7–85; 8:45 am]

BILLING CODE 6717–01–M

Long Lake Energy Corp.; Hydroelectric Application Filed With the Commission October 3, 1985.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of Application: Transfer of License.

b. Project No.: 4334–006.

c. Date Filed: September 13, 1985.

d. Applicant: Long Lake Energy Corporation, Philadelphia Corporation, and Prudential Interfunding Corporation.

e. Name of Project: Philadelphia Hydroelectric.

f. Location: On the Indian River in the Village of Philadelphia, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: George M. Knapp, Nixon, Hargrave, Devans & Doyle, One Thomas Circle, NW., Suite 800, Washington, DC 20005.

i. Comment Date: October 11, 1985.

j. Description of the Proposed Transfer: On February 17, 1983, a major license was issued to Long Lake Energy Corporation (Long Lake) to construct,

operate, and maintain the Philadelphia Hydroelectric Project No. 4334. Construction of the project commenced in July of 1985. It is proposed to transfer the license to Philadelphia Corporation (Philadelphia) and Prudential Interfunding Corporation (Prudential). Applicants state that the transfer is necessary to permit the construction and operation of the project pursuant to a "Financing Arrangement", and request that the transfer be made effective in two stages: (1) The first transfer, from Long Lake to Philadelphia to be effective the date of the conveyance of the project properties from Long Lake to Philadelphia (immediately upon approval of the transfer); and (2) the second transfer, to add Prudential as a co-licensee at the closing of the long-term phase of the "Financing Arrangement", to be effective within ninety days after the project is put on-line.

Philadelphia is a private corporation organized under the laws of the State of New York, and Prudential is a private corporation organized under the laws of the State of Delaware.

k. This notice also consists of the following standard paragraphs: B.

l. Filing and Service of Responsive Documents: Any filings must bear in all capital letters the title "COMMENTS", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of this application. 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, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 203 RB at the above address. A copy of any motion to intervene must also be served upon the representatives of the Applicants specified herein.

Standard Paragraph

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 CFR 385.210, 385.211, 385.214. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23954 Filed 10-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Doc. No. SA85-52-000]

Cenergy Exploration Co., Petition for Adjustment

October 1, 1985

On August 30, 1985, Cenergy Exploration Company (Cenergy) filed with the Commission a petition for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978. Specifically, Cenergy seeks relief from the requirement of Commission Order Nos. 399, 399-A, and 399-B that it refund Btu overcharges of approximately $500,000 to its purchaser Transcontinental Gas Pipeline Company (Transco) prior to August 30, 1985.

Cenergy has entered into four contracts to sell natural gas to Transco.[1] While Cenergy's Btu refund obligation under these contracts totals approximately $500,000, Transco's alleged outstanding obligation to Cenergy under the contracts exceeds $13,000,000. Cenergy also claims it has not received approximately $116,000 from royalty interest owners for their share of Btu refunds. Cenergy asserts that under Order No. 399-A, Cenergy may deduct from its refund payment any uncollected royalty interest portion of the Btu refund obligation.

Cenergy asserts that it would be inequitable to require Cenergy to pay the Btu refunds before Transco pays the amounts it owes to Cenergy. Cenergy also asserts that immediate payment of the Btu refunds would deprive Cenergy of a substantial portion of the capital needed for the company's ongoing operations. Cenergy therefore requests the Commission to adjust the Order No. 399-B requirement that Btu refunds be paid by August 30, 1985, by postponing Cenergy's obligation to pay such refunds until Transco pays its debts to Cenergy.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure (18 CFR 385.1101 *et seq.* (1985)). Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 23941 Filed 10-7-85; 8:45 am]

BILLING CODE 6717-01-M

[1] Cenergy states the four contracts involve natural gas produced from Brazos Block 409-L, High Island Block 10-L, the Charline Field, Live Oak County, Texas, and Vermillion Block 348.

[Doc. No. GP85-44-000]

Commonwealth of Pennsylvania et al.; Petition To Reopen and Vacate Final Well Category Determinations and Request To Withdraw

Issued October 1, 1985.

In the matter of Commonwealth of Pennsylvania, Department of Environmental Resources, Section 102 Determinations, Meridian Exploration Corp., V. Mahan No. 570-1 Well, FERC JD No. 82-20126, V. Mahan No. 583-3 Well, FERC JD No. 82-26991.

Take notice that on August 2, 1985, Meridian Exploration Corporation (Meridian) filed with the Commission a petition to reopen and vacate final well category determinations under section 102 of the Natural Gas Policy Act of 1978 for the wells listed in the caption of this notice, both of which are located in Pennsylvania, and to withdraw its applications for the determinations.

Meridian states that the wells do not qualify under section 102 of the NGPA because they are located within 2.5 miles of a marker well and that the applications for section 102 determinations were the result of a clerical error. Meridian further states that both wells have received final determinations under NGPA section 107(c)(5) and that Meridian has not collected prices in excess of the section 107 price.

The question of whether refunds, plus interest calculated under § 154.102(c) of the regulations, will be required is a matter which will be considered by the Commission in ruling on the subject petition.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, not later than 30 days following publication of this notice in the **Federal Register.** All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23942 Filed 10-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Doc. No. ER85-644-000]

Duke Power Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued September 30, 1985.

On July 24, 1985, Duke Power Company (Duke) tendered for filing a proposed two-phase increase in rates for service to twelve municipalities and public utilities.[1] As requested, the Phase I, or 'interim' rates, would increase jurisdictional revenues by approximately $5,900,000 (13%), and the Phase II, or 'proposed' rates, an additional $5,700,000 in revenues, based upon the Period II test year ending December 31, 1986. Of the total $11,700,000 requested increase, approximately $11,655,000 is attributable to Rate Schedule No. 10, and the remaining $45,000 for Duke's proposed stand-by charge.[2] Duke requests that the interim and proposed rates become effective on October 2, 1985, and that they be suspended for one day. However, the company states that it does not object to a five month suspension of the proposed rates. In the event that the proposed rates are suspended for one day, Duke requests that the interim rates be deemed withdrawn.

Notice of the company's filing was published in the Federal Register,[3] with comments due on or before August 19, 1985. Timely motions to intervene were filed by Lockhart Power Company (Lockhart) and 8 municipal customers (Municipals).[4] Lockhart disagrees with several aspects of the filing submitted by Duke, including: (1) The stand-by charge for customers having their own generation; (2) load control credits; and (3) demand and energy loss factors at differing voltage levels. Lockhart does not object to a one-day suspension for the interim rates, provided that the proposed rates are suspended for five months.

The Municipals request that Duke's interim and proposed rates be suspended for five months. In support, they raise various cost of service issues.[5] The Municipals also contend that a five month suspension is warranted in light of the alleged inadequacy of the workpapers supporting the proposed increase; the Municipals do not request, however, that the Commission make Duke's filing deficient. The Municipals request summary disposition as to the inclusion of payments to EPRI in the cost of service. Finally, the Municipals request that the Commission institute price squeeze proceedings.

On August 26, 1985, the Municipals filed an amendment[6] to their motion to intervene, calling attention to the Commission's Order No. 420.A issued August 20, 1985,[7] in which the Commission addressed the proper method for reflecting common stock issuance costs. The Municipals state that Order No. 420-A supports their claim that Duke's proposed return on common equity is excessive.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, the timely, unopposed motions to intervene serve to make Lockhart and the Municipals parties to this proceeding.

With respect to the adequacy of the workpapers submitted by Duke, the Municipals state only that this factor should be considered in their request for a suspension of the proposed rates, and they do not request that the submittal be made deficient or that the filing be rejected. Having evaluated Duke's submittal, we believe that it minimally satisfies our filing requirements.

The Municipals have requested summary disposition as to Duke's inclusion of EPRI contributions in the proposed wholesale cost of service. We agree with the intervenors and find that summary disposition is warranted with regard to this issue. The Commission has consistantly found that contributions to EPRI should not be recovered through wholesale rates.[8] While there are insufficient data in Duke's filing to determine the precise level of EPRI expenses in the wholesale cost of service, it appears that Duke has in fact included such amounts. We shall therefore require Duke to refile its proposed rates and cost statements to eliminate these expenses.

Our review of Duke's filing and the pleadings indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable, but may not generate substantially excessive revenues, as defined in *West Texas*. Here, our examination suggests that both the interim and proposed rates, as modified by summary disposition, may not produce substantially excessive revenues. In accordance with Duke's request, we shall deem the interim rates withdrawn, accept the proposed rates, as modified, for filing, and suspend them for one day, to become effective on October 3, 1985, subject to refund.

In accordance with the Commission's policy and practice established in *Arkansas Power & Light Company*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by the intervenors.

The Commission orders

(A) Summary disposition is hereby ordered with respect to Duke's inclusion

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[1] See Attachment for list of affected customers and rate schedule designations.

[2] Duke's stand-by charge is currently under investigation in Docket No. ER84-177-000.

[3] 50 FR 32,263 (1985).

[4] The Public Works Commissions of Due West, and Greenwood, South Carolina; the Town of Prosperity, South Carolina; the Board of Light and Water Commissioners of the City of Concord, North Carolina; the Town of Dallas, North Carolina; the Public Works Department of the Town of Forest City, North Carolina; and the Seneca Light and Water Plant of Seneca, South Carolina.

[5] These issues include: (1) excessive return on common equity; (2) understatement of revenue credits; (3) overstatement of fossil fuel inventory; (4) excessive projections for salaries and wages, A&G, and general plant expenses; (5) failure to eliminate spent nuclear fuel disposal costs (SNFDC) from cash working capital allowance; (6) refund of prior years' overcollection of SNFDC on the basis of demand rather than energy; (7) failure to reduce rate base by the unamortized amount of prior years' overrecovery of SNFDC; (8) improper treatment of prepayments related to refunding of long-term debt; (9) excessive load and energy requirement projections; (10) use of a rate tilt which recovers demand-related costs in the energy charge; (11) recovery of a 1 mill/kWh SNFDC charge via the energy charge rather than via the fuel clause; and (12) possible imprudence of Catawba buy-back costs.

[6] Although styled as a motion to supplement, we shall treat the pleading as an amendment pursuant to Rule 215 of the Commission's Rules of Practice and Procedure.

[7] 32 FERC ¶ 61,257.

[8] *See, e.g. Carolina Power & Light Co.*, 25 FERC ¶ 61,294 (1983); *Central Louisiana Electric Co.*, 20 FERC ¶ 61,350 (1982).

of EPRI expenses in its wholesale cost of service. Within thirty (30) days of the date of this order, Duke shall refile its proposed rates and supporting costs of service statements reflecting the Commission's ruling.

(B) Duke's interim rates are hereby deemed withdrawn. Duke's proposed rates are accepted for filing, as modified by summary disposition, and are suspended for one day from October 2, 1985, to become effective, subject to refund, on October 3, 1985.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations of the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of Duke's rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) Subdocket –000 of Docket No. ER85–644–000 is terminated. Docket No. ER85–644–001 is assigned to the evidentiary proceeding ordered herein.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary

Duke Power Company

[Docket No. ER85–644–000]

Rate Schedule Designations

Proposed Rates:

Suplement No.	Supersedes supplement No. (as supplemented)	FPC rate schedule No.	Customer
25	24	245	City of Concord, N.C.
22	21	254	Town of Dallas, N.C.
31	29	237	Town of Forest City, N.C.
25	24	260	City of Kings Mountain, N.C.
19	18	259	Clemson University, S.C.
15	14	269	City of Duke West, S.C.
44	42	250	Commissioner of Public Works, Greenwood, S.C.
25	23	242	Town of Prosperity, S.C.
17	16	263	Town of Seneca, S.C.
22	21	236	Health Springs Light and Power Co., S.C.
31	28	252	Lockhart Power Co. S.C.
21	20	262	South Carolina Electric & Gas Co.

[FR Doc. 85–23943 Filed 10–7–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER85–659–000 et al.]

Georgia Power Co. et al.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Denying Request for Waiver of Notice Requirements, Consolidating Dockets, and Establishing Hearing and Price Squeeze Procedures

Issued September 30, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

On August 1, 1985, Georgia Power Company (Georgia Power) submitted for filing a proposed two-step increase in rates for service to three partial requirements customers in Docket No. ER85–659–000,[1] and two full requirements customers in Docket No. ER85–660–000.[2][3] The proposed Level A rates would increase revenues by approximately $4.6 million (1.7%), and the proposed Level B rates would result in an additional increase of $5.8 million, for a total increase of $10.4 million (3.8%) for the twelve-month test period ending July 31, 1986. Georgia Power requests an effective date of September 30, 1985, for both levels. However, in the event both levels become effective on the same date, Georgia Power requests that the Level A rates be withdrawn. To the extent necessary, the company requests waiver of the notice and filing requirements.

On July 26, 1985, Oglethorpe Power Corporation (Oglethorpe) submitted a complaint under section 206 of the Commission's Rules of Practice and Procedure,[4] seeking a decrease in the present rate for partial requirements service (Docket No. EL85–40–000). Oglethorpe states that several factors affecting Georgia Power's cost-of-service to partial requirements customers have changed since the settlement agreement in the last rate filing, including a substantial increase in off-system sales.[5] Oglethorpe has submitted cost-of-service study data for the test year ending December 31, 1985, which allegedly shows that Georgia Power's partial requirements customers are being overcharged at least $6.8 million. Oglethorpe therefore requests that the Commission initiate an investigation and hearing regarding the reasonableness of the company's present (PR–7) rates.

Notice of the filing in Docket No. ER85–659–000 was published in the **Federal Register,**[6] with comments due on or before August 21, 1985. Oglethorpe filed a timely motion to intervene. Timely motions to intervene were also filed by the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia (Dalton), and Greensboro Lumber Company (Greensboro). Oglethorpe requests a hearing and a five-month suspension of both the Level A and Level B rates and states that the present rates should be lowered as requested in its complaint in Docket No. EL85–40–000. Oglethorpe raises several cost-of-service and rate design issues in support of its requests,[7] and alleges possible price squeeze.

[1] The City of Dalton, Georgia, the Municipal Electric Authority of Georgia, and Oglethorpe Power Corporation.

[2] The Cities of Acworth and Hampton, Georgia.

[3] *See* Attachment for rate schedule designations and affected customers.

[4] 18 CFR 385.206 (1984).

[5] Oglethorpe also alleges that Georgia Power improperly included in rate base certain expenses in CWIP and allowances for cash working capital.

[6] 50 FR 32,478 (1985).

[7] The issues raised include: (1) Improper treatment of revenue credits; (2) improper inclusion of expenditures as CWIP; (3) excessive cash working capital, including improper allowance for minimum bank balances; (4) failure to synchronize interest expense; (5) improper computation of income taxes; (6) excessive fuel stock; (7) excessive return on common equity; and (8) improper rate design.

Dalton alleges that the availability and related contract and notice provisions in Georgia Power's filing may be interpreted as disqualifying Dalton from continued eligibility as a partial requirements customer. Dalton further states that Georgia Power has not justified its rate increase.

Greensboro's motion raises no specific issues. However, the Municipal Electric Authority of Georgia (MEAG) filed an answer in opposition to Greensboro's motion to intervene, stating that Greensboro's interest in this case is so remote that its intervention can serve no useful purpose, and that its intervention may complicate the prompt resolution of the case.

On August 22, 1985, MEAG filed an untimely motion to intervene, request for five-month suspension, hearing, and consolidation with Oglethorpe's complaint in Docket No. EL85–40–000. MEAG raises several of the issues raised by Oglethorpe as well as additional issues of its own.[8] In support of its request for consolidation, MEAG states that the proceedings present common issues of fact and law, that no hearings have begun in either case, and that a single proceeding will save time and resources.

Notice of the filing in Docket No. ER85–660–000 was published in the Federal Register,[9] with comments due on or before August 21, 1985. The Cities of Acworth, and Hampton, Georgia (Cities) filed timely motions to intervene in Docket Nos. ER85–659–000 and ER85–660–000, requesting a hearing and five-month suspension of the proposed rates for full requirements customers. The Cities allege that Georgia Power's rate increase is excessive, and that they will suffer irreparable harm if the proposed changes are not suspended for the full period. The Cities also oppose Georgia Power's request for waiver of the notice and filing requirements. Finally, the City of Acworth alleges price squeeze.

On September 19, 1985, the Consumers' Utility Counsel of Georgia (CUC) filed an untimely motion to intervene in Docket Nos. ER85–659–000 and ER85–660–000, but did not raise any specific issues.

Notice of Oglethorpe's filing in Docket No. EL85–40–000 was published in the Federal Register,[10] with comments due on or before September 3, 1985. Dalton filed a timely motion to intervene, but raised no specific issues. MEAG filed a timely motion to intervene and to consolidate this case with Docket No. ER85–659–000.[11] MEAG alleges that both proceedings are at the same stage and raise several of the same issues. Georgia Power filed an answer to the complaint and denied the allegations raised therein. Georgia Power claims that its present rates are cost justified, and the Oglethorpe's complaint should be dismissed or declared to be satisfied. Georgia Power requests that, in the event that the Commission orders further proceedings in the docket, it be consolidated for purposes of hearing only with Docket No. ER85–659–000.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely, unopposed motions to intervene by Dalton, the Cities, and Oglethorpe in Docket No. ER85–659–000, by the Cities in Docket No. ER85–660–000, and by Dalton and MEAG in Docket No. EL85–40–00 serve to make them parties to these proceedings. In light of the interests which they represent, the early stage of these proceedings, and the absence of any undue delay or prejudice, we shall grant MEAG's untimely motion to intervene in Docket No. ER85–659–000 and the CUC's untimely motion to intervene in Docket Nos. ER85–659–000 and ER85–660–000. Notwithstanding MEAG's opposition, we shall grant Greensboro's motion to intervene, given its interest as a customer of both Georgia Power and Rayle Electric Membership Corporation, which is a member system of Oglethorpe.

Our review of Georgia Power's submittal indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that, where our preliminary examination indicates that the proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, we would generally impose a maximum suspension. Here, our examination suggests that both the proposed Level A and Level B rates may yield substantially excessive revenues. While Georgia Power states that its proposed effective date of September 30, 1985, reflects the statutory sixty day notice period, this date is actually one day short. Because the Cities oppose waiver of the notice period, we shall deny Georgia Power's request for waiver. We shall therefore suspend Georgia Power's Level B rates for five months from 60 days after filing, to become effective on March 1, 1986, subject to refund. In accordance with Georgia Power's request, the Level A rates will be deemed withdrawn.

Oglethorpe requests, in Docket No. EL85–40–000, investigation under section 206 of the Federal Power Act to determine if Georgia Power's present rates are just and reasonable. In accordance with the Commission's customary practice, we shall set Georgia Power's rates for hearing under sections 205 and 206 of the Federal Power Act. To the extent that a reduction from the company's existing rate level is warranted, such relief may be effected on a prospective basis.

In light of the common questions of law and fact presented in Docket Nos. ER85–659–000, ER85–660–000, and EL85–40–000, we shall consolidate these dockets for purposes of hearing and decision.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by the intervenors.

The Commission Orders

(A) The untimely motions to intervene of MEAG and the CUC are hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) Georgia Power's request for waiver of the notice requirements is hereby denied.

(C) Georgia Power's proposed Level B rates are suspended for five months from 60 days after filing, to become effective March 1, 1986, subject to refund. The proposed Level A rates are deemed withdrawn.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness

[8] These additional issues include: (1) Overstated depreciation expense; (2) improper inclusion of retail-related general expenses; (3) excessive cost of long-term debt; (4) improper inclusion of plant held for future use; (4) excessive materials and supplies expense; and (5) failure to amortize FERC regulatory expense.

[9] 50 *FR* 32,687 (1985).

[10] 50 *FR* 32,689 (1985).

[11] On September 20, 1985, Oglethorpe filed motions in Docket Nos. EL85–40–000 and ER85–659–000, also seeking consolidation of the two dockets.

and reasonableness of Georgia Power 's rates.

(E) Docket Nos. ER85–659–000, ER85–660–000, and EL85–40–000 are hereby consolidated.

(F) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (exept motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) Subdockets –000 in ER85–659, ER85–660, and EL85–40 are terminated. Subdockets –001 are assigned to the evidentiary proceeding ordered herein.

(J) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Georgia Power Company Rate Schedule Designations

Revised sheets	Superseded sheets
Docket No. ER85–659–000	
FPC Electric Tariff, Original Volume No. 2, Partial Requirement Service (PR–8/Level 8)	
(1) 6th Revised Sheet No. 1	5th Revised Sheet No. 1.
(2) 7th Revised Sheet No. 4	6th Revised Sheet No. 4.
(3) 13th Revised Sheet No. 6	12th Revised Sheet No. 6.
(4) 8th Revised Sheet No. 11–A.	7th Revised Sheet No. 11–A.
Docket No. ER85–660–000	
FPC Electric Tariff, Original Volume No. 1, Full Requirement Service (FR–5/Levpi 6)	
(1) 10th Revised Sheet No. 23.	9th Revised Sheet No. 23.
(2) 15th Revised Sheet No. 24.	14th Revised Sheet No. 24.
(3) 6th Revised Sheet No. 25.	5th Revised Sheet No. 25.

[FR Doc. 85–23944 Filed 10–7–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–2204–001]

J.J. Saacks; Application for Authorization Under Section 305(b) of the Federal Power Act

September 27, 1985.

Take notice that on September 24, 1985, pursuant to Section 305(b) of the Federal Power Act and Part 45 of the Commission's Regulations thereunder, J.J. Saacks tendered for filing an application for authorization to hold interlocking positions as an officer of Louisiana Power & Light Company (LP&L) and of New Orleans Public Service Inc. (NOPSI).

Applicant is a Group Vice President of LP&L. He was elected on August 26, 1985 (subject to and effective upon the authorization of this Commission) to serve also as a Group Vice President of NOPSI (He is presently a Vice President of NOPSI).

LP&L and NOPSI are public utilities within the meaning of section 201(e) of the Federal Power Act. Both companies are subsidiaries of Middle South Utilities, Inc., a holding company registered under the Public Utility Holding Company Act of 1935. Subject to the obtaining of necessary regulatory and other approvals, LP&L and NOPSI have announced their intention to consolidate the operations of the two companies into a new company, also to be named Louisiana Power & Light 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 10, 1985. 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. 23950 Filed 10–7–85; 8:45 am]

BILLING CODE 6717–01–M

Lincoln National Life Insurance Co.; Application for Transfer of License

[Project No. 2069–000]

October 3, 1985.

Public notice is hereby given that an application was filed on August 6, 1985, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), by the Lincoln National Life Insurance Company, Licensee and Arizona Public Service Company, Transferee for transfer of license for project No. 2069. The project is located on Fossil Creek Springs in Yavapai and Gila Counties, Arizona. Correspondence should be directed to Thomas E. Parrish, Esq., Arizona Public Service Company, Law Department, Station 4142, P.O. Box 53999, Phoenix, AZ 85072–3999.

Transferee states that it will comply with all applicable laws of the State of Arizona as required by Section 9(b) of the Federal Power Act.

Anyone desiring to be heard or to make any protest about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. Comments not in the nature of a protest may also be submitted by conforming to the procedures specified for protests. In determining the appropriate action to take, the Commission will consider all protests or comments filed, but a person who merely files a protest or comment does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protests, or motions to intervene must be received on or before Nov. 18, 1985. The Commission's address is: 825 North Capitol Street, NE., Washington, DC 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–23945 Filed 10–7–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP85–51–000]

Mitchell Energy Corp; Petition to Reopen and Vacate Final Well Category Determination and Request for Withdrawal of Application

October 1, 1985.

In the matter of: State of Texas, Section 108 Determination, Mitchell Energy Corporation, Bertha Collins #2 Well, FERC JD No. 85–26032.

Take notice that on September 10, 1985, Mitchell Energy Corporation (Mitchell) filed with the Commission pursuant to § 275.205 of the Commission's regulations a petition to reopen and vacate a final well category determination under section 108 of the Natural Gas Policy Act of 1978 (NGPA) for the well listed in the caption of this notice and to withdraw its application for the determination.

Mitchell states that the well does not qualify under Section 108 of the NGPA because it may not have been producing at its maximum rate of flow during the initial 90 day qualifying period. Upon a review of production records, Mitchell discovered that certain equipment normally utilized on the well was not in operation during a portion of the qualifying period and that had the equipment been in operation, the rate of production might have exceeded the 60 Mcf per day limit for such period. Mitchell further states that all monies collected pursuant to section 108 of the NGPA for the well have been refunded, with interest, to the purchaser.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23948 Filed 10-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-646-000 and ER85-647-000]

New England Power Co.; Order Accepting for Filing and Suspending Rates Granting Intervention, Inviting Further Interventions, Denying Motions To Reject and for Summary Disposition, Consolidating Dockets, Phasing Proceeding, and Establishing Hearing Procedures

Issued September 30, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

On July 26, 1985, New England Power Company (NEP) submitted for filing a proposed increase in rates for firm service to ten wholesale customers (Docket No. ER85-647-000).[1] The proposed rates (referred to as the W-7 rates) would result in a $74.2 million rate increase on the basis of a 1986 test year. The same date, NEP filed an amended service agreement dated July 23, 1985, between NEP and its affiliate, Narragansett Electric Company (Narragansett) (Docket No. ER85-646-000). This amendment results in a $2.0 million increase in annual credits NEP provides to Narragansett on its purchased power bill for the use of Narragansett's generation and transmission facilities (the G&T credits). NEP proposes an effective date of October 1, 1985, for the filings, but requests that they be suspended for three months, to become effective on January 1, 1986. NEP seeks the three month suspensions so that it will start charging the W-7 rates and the G&T credits when the test year begins. NEP also requests that Docket Nos. ER85-646-000 and ER85-647-000 be consolidated for purposes of hearing and decision.

Notice of NEP's filings was published in the **Federal Register**,[2] with comments due on or before August 19, 1985. On August 14, 1985, the New England Energy Group (NEEG) filed a motion to intervene in Docket No. ER85-647-000 challenging NEP's right to recover costs of the Seabrook Unit 2 plant.

On August 15, 1985, Green Mountain Power Corporation (Green Mountain) filed a motion to intervene in Docket No. ER85-647-000 in which it raised no substantive issues. On August 19, 1985, the New Hampshire Public Utilities Commission (New Hampshire) filed a notice of intervention in Docket No. ER85-647-000. The same date, the Town of Norwood, Massachusetts (Norwood) filed a motion to intervene in Docket No. ER85-647-000 for the purpose of defending its settlement agreement with NEPCO dated April 11, 1983. The Massachusetts Department of Public Utilities (MDPU) also filed a notice of intervention in both dockets on August 19, 1985. According to the MDPU, the size, complexity, and controversial nature of the issues raised by NEPCO's filing mitigate against the case being made subject to the provisions of Rule 717 of the Commission's Rules of Practice and Procedure (18 CFR § 385.717). However, the MDPU, as well as Green Mountain, New Hampshire, and Norwood do not raise any specific issues in their pleading.

The Towns of Merrimac and Groveland, Massachusetts (Towns) filed a timely motion to intervene in Docket Nos. ER85-646-000 and ER85-647-000. The Towns seek rejection of the entire filing on the grounds that NEP has failed to substantiate its cost items and projections. The Towns seek summary disposition with regard to: (1) Inclusion of Seabrook Unit 2 cancellation costs in rate base; (2) the inclusion of decommissioning costs for Millstone Unit 3; (3) NEP's calculation of purchased power costs from small power producers at costs which exceed its avoided costs; (4) the inclusion of payments for the construction of transmission resources for the importation of power from Hydro Quebec; and (5) NEP's projected in-service date of Millstone Unit 3. The Towns request a five month suspension of NEP's filing. In support, Towns allege: (1) NEP may have booked excessive AFUDC due to waivers granted by the Chief Accountant; and (2) NEP's requested rate of return on common equity, demand projections, cash working capital allowance, and property tax estimates are excessive. Finally, the Towns allege that NEP's fixed credits from Narragansett in Docket No. ER85-646-000 are excessive.

On August 19, 1985, the Attorney General of Rhode Island filed motions to intevene in both dockets on behalf of her office and the Rhode Island Division of Public Utilities and Carriers (Rhode Island). Rhode Island requests that the filings be suspended for five months. In Docket No. ER85-647-000, Rhode Island raises many of the cost of service issues raised by the Towns. In addition, Rhode Island requests summary disposition as to the inclusion of Millstone Unit 3 costs in rates and the increase in purchased power costs from the Yankee nuclear facilities.

A timely motion to intervene was also filed by the Attorney General of the Commonwealth of Massachusetts (Mass. AG). The Mass. AG requests that NEP's filing be suspended for five months, and that summary disposition as to the amortization of Seabrook Unit 2 costs be granted. The Mass. AG also requests that the Commission investigate NEP's methodology for forecasting revenues. Finally, the Mass. AG urges that the case not be set for hearing on a expedited basis.

On August 29, 1985, the Secretary of the Army (Army) filed an untimely

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[1] *See* Attachment for rate schedule designations and affected customers.

[2] 50 FR 32,262 (1985).

motion to intevene in Docket No. ER85–647–000. The Army requests a five month suspension, alleging that the proposed rates are not just and reasonable, are discriminatory and otherwise unlawful.[3]

On September 3, 1985, NEP filed an answer to the motions to intervene. It does not oppose any of the interventions. NEP argues that summary disposition as to the amortization of Seabrook Unit 2 cancellation costs is inappropriate because "nothing in the Commission's regulations or precedents, or in fundamental ratemaking principles requires a formal delaration of cancellation before a utility may commence recovery of its prudent investment in an uncompleted facility." NEP goes on to point out that construction on Seabrook Unit 2 was halted on April 18, 1984, and the joint owners unamimously adopted an amendment to the Seabrook Joint Ownership Agreement conditionally cancelling Unit 2 and barring a resumption of construction without a majority vote of the joint owners. The joint owners on March 19, 1985, also adopted a resolution not to resume construction of Seabrook Unit 2 unless the Joint Ownership Agreement is amended to give each joint owner the option not to participate. It is thus NEP's position that construction will probably not resume on Seabrook Unit 2 and that even if construction resumes, NEP will not be forced to continue in the project. NEP also argues that its request for a return on the amortized balance of Seabrook Unit 2 cancellation costs should not be summarily disposed of despite the fact that such inclusion is contrary to *New England Power Co.*, Opinion No. 49, 8 FERC ¶ 61,0054 (1979), *aff'd sub. nom; NEPCO Municipal Rate Committee* v. *FERC*, 668 F.2d 1327 (D.C. Cir. 1981) *cert. denied*, 457 U.S. 1117 (1982). NEP argues that Opinion No. 49 should not be followed in this case for two reasons. First, Opinion No. 49's policy is allegedly outdated and was adopted without the opportunity to examine the impact of denying a return on significant amounts of capital invested which would in turn impact on efficient generation planning and decisionmaking.[4] Second, NEP argues that the recent decision in *Jersey Central Power & Light Co.* v. *FERC*, No. 82–3004 (D.C. Cir., August 2, 1985) precludes summary disposition on this issue.

With respect to the remaining issues as to which summary disposition is requested, NEP argues that the motions should be denied because they present issues of fact. NEP also disputes Rhode Island's claim that the estimates of purchased power costs from the Yankee plants are excessive.

NEP maintains that it is entitled to a minimum suspension period. In support, the company disputes the allegations contained in the interventors' pleadings.

Finally NEP objects to the requests of the Mass. AG and the MDPU that the proceeding not be set for expedited consideration under Rule 717. NEP points out that this designation is in the discretion of the chief Administrative Law Judge. NEP also argues that the W–7 filing issues are straightforward, and, with respect to the Seabrook project, the MDPU and Mass. AG, as well as the other participants, are intimately familiar with the data related to an investigation of the project.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely, unopposed notices and motions to intervene serve to make the Towns, NEEG, Green Mountain, New Hampshire, Norwood, the MDPU, Rhode Island, and the Mass. AG parties to this proceeding. Given its interests, the early stage of this proceeding, and the absence of any undue delay or prejudice, we belive that granting the Army's motion would not consititute undue prejudice or delay. Thus, we find that good cause exists to grant the Army untimely motion to intervene.

We shall deny the Town's request for rejection of NEP's filing because our review indicates that the filings substantially comply with Commission regulations. We shall also deny the intervenors' request for summary disposition as to NEP's proposed recovery of amortized cancellation costs for Seabrook Unit 2; NEP's inclusion of costs associated with the Millstone Unit 3 nuclear facility; NEP's projected costs for alternate energy purchases; NEP;s projected expenditures on the Hydro-Quebec project; and NEP's forecasted purchased power costs. We find that these issues present questions of fact or law more appropriately resolved in an evidentiary hearing.

NEP's filing also presents the Commission with a significant policy question. The company requests that the Commission re-examine its policy regarding the treatment of the costs of cancelled plant. The present policy provides for a sharing of the costs of cancelled plant between ratepayers and the company. *See, e.g.*, Opinion No. 49, *New England Power Company*, 8 FERC ¶ 61,054 (1979), *aff'd sub nom. NEPCO Municipal Rate Committee v. FERC*, 668 F.2d 1327 (D.C. Cir. 1981), *cert. denied*, 457 U.S. 1117 (1982). That policy permits utilities to recover from ratepayers the total investment, including accrued AFUDC, to the point of cancellation, but denies inclusion in rate base of that portion of the recoverable costs which have not yet been amortized. In this way, the Commission permits a return of, but not on, capital invested in cancelled projects.

NEP alleges that changed circumstances bring into question the continued vitality of the Commission's policy. The Company argues that the Commission should permit NEP the opportunity to show why we should revisit this policy.

The Commission agrees that NEP should be permitted the opportunity to show whether the policy in question remains valid.[5] The importance of this issue, however, transcends the impact on a single jurisdictional utility. To permit development of the fullest possible record, the Commission will afford the opportunity for other interested persons to participate in this proceeding.[6] Participants should explore whether circumstances warrant re-examination of this policy as well as the economic and legal underpinnings for a cancelled plant policy.

In our recent Notice of Inquiry,[7] the appropriateness of the existing cancelled plant policy was among a number of issues raised. We do not believe that the Notice of Inquiry limits in any way our policy review in this proceeding; nor that this proceeding will limit in any way our review of the issue in that Inquiry. Rather, we see the two processes, each of which has distinctive advantages as vehicles for reviewing the

[3] As good cause for its late pleading, the Army's counsel states that he did not become aware until August 15, 1985, of the Army's interest in this proceeding.

[4] NEP has presented testimony in support of a seven and a half year amortization period with a return on the unamortized balance as an alternative rate proposal. NEP's testimony states that the Commission's present policy: (1) Unnecessarily penalizes utility shareholders; (2) promotes inefficiencies in electrical generation and utility planning; and (3) creates an incentive to continue reliance on costly oil-fired units.

[5] NEP has not factored its suggested treatment into the rates proposed in this docket; rather, it seeks only a prospective change in abandoned plant treatment. Thus, we have an opportunity to evaluate the issue with reference to a particular utility, but without having to permit rates reflecting a non-conforming practice to take effect subject to refund.

[6] Any additional motions to intervene shall be filed within forty-five days of the date of this order. The presiding administrative law judge shall have authority to rule on any motions to intervene that require resolution under 18 CFR § 385.214.

[7] 31 FERC ¶ 61,376.

policy, as being essentially complementary. In this proceeding, we will have the benefit of focusing the parties on the abandonment policy in the context of a specific proposal by a specific company; in the Notice of Inquiry, we will have the benefit of reviewing the policy in the light of the broader range of cross-cutting issues that we have raised, which relate to the allocation of risk between shareholders and ratepayers. Moreover, we do not foresee any difficulty in utilizing what we have learned from one process in the other.

In evaluating this issue on a broad basis, we do not intend to unnecessarily delay consideration of NEP's present rate change proposal. Thus, we shall phase the proceeding so that the cancelled plant issue may be addressed separately. In the cancelled plant phase of the proceeding, the presiding judge should evaluate the record and issue an initial decision resolving disputed factual matters. However, since an ultimate decision will rest in large part on a weighing of policy considerations by the Commission, we do not intend that the presiding judge will address the competing policy questions in an initial decision.

In establishing the above procedures, we wish to emphasize that any change in Commission policy shall be prospective only. We are *not* announcing today a change in Commission policy concerning cancelled plant costs in rate base, nor are we stating that any such change is imminent. Rather, we are willing to entertain argument as to whether the ratemaking treatment set forth in Opinion No. 49 should be revised. Until any change is enunciated, electric utilities shall adhere, for rate purpose, to the precedent established in Opinion No. 49.*

Our preliminary review of NEP's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, undully discriminatory or preferential, or otherwise unlawful. Therefore, we shall accept NEP's submittals for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that, where our preliminary examination indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, we would generally impose a five month suspension. In *West Texas*, we also explained that, where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but not substantially excessive, we would generally impose a nominal suspension. Here, our examination suggests that the W-7 rates in Docket No. ER85-647-000 may result in substantially excessive revenues. Accordingly, we shall suspend the proposed W-7 rates for five months from the proposed effective date, to become effective, subject to refund, on March 1, 1986. We further find that the proposed G&T credits in Docket No. ER85-646-000 may not result in substantially excessive revenues. Ordinarily we would suspend the filing for one day. However, in this instance, we shall honor NEP's request for a three month suspension in order to coordinate the beginning of Period II with the beginning date of these credits. Therefore, the filing in Docket No. ER85-646-000 shall become effective on January 1, 1986, subject to refund.

We find that common questions of law or fact may be presented in Docket Nos. ER85-646-000 and ER85-647-000. Accordingly, we shall consolidate the dockets for purposes of hearing and decision.

With respect to the intervenors' request that Rule 717 expedited hearing procedures not be applied to this proceeding, we shall leave the decision to the discretion of the Chief Administrative Law Judge, who is charged with making such decisions. *See, Utah Power & Light Company*, 30 FERC ¶ 61,015 (1985).

The Commission orders:

(A) The Army's untimely motion to intervene late is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) The motions for rejection and summary disposition are hereby denied.

(C) NAP's W-7 rates are accepted for filing and suspended for five months to become effective, subject to refund, on March 1, 1986. NEP's G&T credits are accepted for filing and suspended for three months to become effective on January 1, 1986, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NEP's rates and issues relating to cancelled plant costs.

(E) The hearing in this proceeding is hereby phased, as discussed in the body of this order, with cancelled plant issues to be addressed in Phase II and all matters affecting NEP's proposed rates to be considered in Phase I.

(F) Any person seeking to intervene in Phase II of this proceeding for purposes of participating in the development of a record on the cancelled plant issues shall file a motion to intervene within forty-five (45) days of the date of this order pursuant to Rule 214 of the Commision's Rules of Practice and Procedure. The designated judge shall have authority to rule on any such motion that is not automatically granted.

(G) The Commission staff shall serve top sheets in Phase I of this proceeding within ten (10) days of the date of this order.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge shall convene a prehearing conference in this proceeding in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Additional conferences shall be convened, as required, to establish procedural dates applicable to both phases of this proceeding. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) Subdockets -000 in Docket Nos. ER85-646 and ER85-647 are hereby terminated. Subdockets -001 in each of those dockets are assigned to the evidentiary proceedings ordered herein.

(J) Docket Nos. ER85-646-001 and ER85-647-001 are hereby consolidated for purposes of hearing and decision.

(K) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

New England Power Company—Docket Nos. ER85-646-000 and ER85-647-000, Rate Schedule Designations

Designation	Description
New England Power Company	
(1) 32rd Revised Sheet No. 1 of Schedule II-A to FPC Electric Tariff, Original Volume No. 1 (Supersedes 31st Revised Sheet No. 1).	W-7 Primary Customers.

*We note that the court in *Jersey Central* has not issued its mandate. In any event, because we are ordering an evidentiary hearing, we need not address the *Jersey Central* arguments.

Designation	Description
(2) 33rd Revised Sheet No. 2 of Schedule II-A to FPC Electric Tariff, Original Volume No. 1 (Supersedes 32nd Revised Sheet No. 2).	Do.
(3) 1st Revised Sheet No. 2A of Schedule II-A to FPC Electric Tariff, Original Volume No. 1 (Supersedes Original Sheet No. 2-A).	Do.
(4) Supplement No. 18 to Service Agreement No. 23 under FPC Electric Tariff, Original Volume No. 1 (Supersedes Supplement No. 17).	Narragansett Electric Company G&T Credits.
Narragansett Electric Company	
(5) Supplement No. 18 to Rate Schedule FPC No. 38 (Concurs in (4) above and supersedes Supplement No. 17).	Certificate of Concurrence.

FR Doc. 85-23948 Filed 10-7-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP85-45-000]

Tenneco Oil Co.; Petition to Reopen and Vacate Final Well Category Determinations and Request for Withdrawal of Applications

October 1, 1985.

In the matter of: State of New Mexico, Section 103 Determinations, Tenneco Oil Exploration and Production Company, #3 Leonard Brothers Well, FERC JD No. 80-02575, #3 Leonard Federal Well, FERC JD No. 80-02564.

Take notice that on September 7, 1985, Tenneco Oil Company (Tenneco) filed with the Commission pursuant to § 275.205 of the Commission's regulations a petition to reopen and vacate final well category determinations under section 103 of the Natural Gas Policy Act of 1978 (NGPA) for the wells listed in the caption of this notice and to withdraw its applications for the determinations.

Tenneco states that it discovered in a November 1981 internal audit that both wells were spudded prior to February 19, 1977, and that the dates in the applications for determination were re-entry dates, not spud dates. Tenneco further states that no refunds are necessary since there has been no collection of the NGPA section 103 maximum lawful price for production from the wells.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protest should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23947 Filed 10-7-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP85-7-000]

Texas Gas Transmission Corp.; Petition of Texas Gas Transmission Corporation for Partial Waiver of Regulations

October 1, 1985.

On November 8, 1984, Texas Gas Transmission Corporation (TXG) petitioned, pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207 (1985), for a partial waiver of 18 CFR 271.1104(e), which was issued as part of Order No. 94-A[1] on January 24, 1983.

TXG states that it is experiencing difficulty in the review, verification and payment by December 31, 1984, of retroactive production related costs as provided in 18 CFR 271.1104(e)(3).[2] (These payments are for delivery and compression costs incurred by producers between the earlier of July 25, 1980, or the date their application to recover such costs was filed with the Commission, and March 7, 1983, the effective date of Order No. 94-A). TXG states that in processing production related cost claims it has encountered time-consuming verification problems. It also states that there may be difficulty in determining the retroactive allowance due certain producers because of a lack of data on individual well production.

TXG requests that § 271.1104(e) be waived to the extent necessary to authorize TXG to pay costs attributable to retroactive allowances for which a description has been received by December 31, 1984, in twelve monthly installments beginning after verification of the information received and ending no later than April 30, 1986, or if fewer than 12 months are available within which to make such payments, then in approximately equal installments over the months remaining until April 30, 1986.

Any person desiring to be heard or to protest TXG's petition should file within 15 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Commission's Rules of Practice and Procedure.[3] All protests filed will be considered but will not make the protestants parties to the proceeding. Any person desiring to become a party must file a petition to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-23949 Filed 10-7-85; 8:45 am]
BILLING CODE 6717-01-M

[1] Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act, 48 FR 5152 (Feb. 3, 1983) (Order No. 94-A; Final Rule and Order on Rehearing of Order No. 94) (Codified at 18 CFR Parts 2, 154, 270 and 271 (1985)).

[2] Section 271.1104(e)(3) provides that amounts are "to be collected through installments over a period of time commencing with March 7, 1983 and ending December 31, 1984; and such installments should, to the maximum extent practicable, be of equal amounts."

[3] 18 CFR 385.211 and 385.214 (1985). Memphis Light, Gas and Water Division, City of Memphis, Tennessee, which already filed a motion to intervene on January 8, 1985, need not refile its motion.

ENVIRONMENTAL PROTECTION AGENCY

Draft General NPDES Permit for Oil and Gas Operations in Portions of the Gulf of Mexico

[OW-6-FRL-2408-4]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Comment Period Extension.

SUMMARY: Revised Public Notice Expiration date for draft general permit No. GMG280000.

The original comment period expiration date was October 7, 1985 [50 FR 30564, July 26, 1985]. This comment period is extended 30 days to November 6, 1985.

FOR FURTHER INFORMATION CONTACT:

Ms. Earline Hanson, Water Management Division, Region 4, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-3544, or

Ms. Ellen Caldwell, Permits Branch (6W-PS), Region 6, U.S. Environmental Protection Agency, Interfirst Two Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2765

Dated: September 20, 1985.

Myron O. Knudson, P.E.,

Director, Water Management Division, Region VI.

Dated: September 24, 1985.

Bruce R. Barrett,

Director, Water Management Division, Region IV.

[FR Doc. 85-23983 Filed 10-7-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-744-DR]

Michigan; Amendment To Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Michigan (FEMA-744-DR), dated September 18, 1985, and related determinations.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-3616.

The notice of a major disaster for the State of Michigan, dated September 18, 1985, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 18, 1985:

Shiawassee County as an adjacent county for Individual Assistance.

Dated: October 1, 1985.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-23973 Filed 10-7-85; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-442]

Home Federal Savings & Loan Association, Gainesville, GA; Final Action Approval of Conversion Application

Dated: September 20, 1985.

Notice is hereby given that on September 11, 1985, the Office General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association of Gainesville, Gainesville, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Post Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-23998 Filed 10-7-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224-004136-001.

Title: Oakland Terminal Agreement.

Parties:

Port of Oakland (Port)

South Seas Steamship Company (South Seas)

Synopsis: This agreement modifies the basis agreement between the parties whereby the Port assigned certain marine terminal facilities in the Port's Outer Harbor Terminal, Berth 6 to South Seas. The amendment provides for the suspsension of the opration of Agreement No. T-4136 during the period in which South Seas transfers its operations to the facility leased by the Port to Matson Terminals, Inc. and uses said Matson facility as its published regularly scheduled Northern Port of call. The amendment also provided for the extension of the term of Agreement No. T-4136 for a period equal to the period in which South Seas uses the Matson facility but not beyond August 31, 1991.

Agreement No.: 224-004159-002.

Title: San Francisco Terminal Agreement.

Parties: City and County of San Francisco, a Municipal Corporation, Operating by and through the San Francisco Port Commission (Port) National Shipping Corporation of the Philippines (NSCP).

Synopsis: Agreement No. 224-004159-002 modifies the basic agreement by extending the term to seven years commencing on the effective date of the amendment. The amendment also provides for varying reductions of tariff charges for warfage and dockage depending on the volume of containers and the number of vessel calls. NSCP will utilize the Port of San Francisco as its published regularly scheduled Northern California port of call. The amendment provides that the Port has assigned the management of the San Francisco Container Terminal, North to California Stevedoring and Ballast, and South to Stevedoring Services of America.

Agreement No.: 207-007593-009.

Title: Hoegh Lines Joint Service Agreement.

Parties:

Leif Hoegh & Co., A/S

Skibsaktieselskapet ABACO A/S

A/S Alliance

A/S Arcadia

A/S Atlantica

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements.

Agreement No.: 202-008090-026.

Title: Mediterranean North Pacific Coast Freight Conference.

Parties:

"Italia" di Navigazione S.p.A/d'Amico Societa di Navigazione, S.p.A (Joint Service)

United Yugoslav Lines

Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would modify the agreement to conform to the Commission's regulations concerning form and format and to provide that commodities excepted from the Commission's tariff filing requirements are also coverd by the agreement.

Agreement No.: 202-009238-015.

Title: Greece/United States Atlantic and Gulf Conference.

Parties:

Farrell Lines, Inc. Sea-Land Service, Inc.

Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would modify the agreement to conform to the Commission's regulations concerning form and format and to provide that commodities except from the Commission's tariff filing requirements are also coverd by the agreement.

Agreement No.: 212–009938–007.

Title: Lloyd/Netumar Association Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro

Companhia de Navegacao Maritima Netumar

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format organization and content requirements.

Agreement No.: 203–009976–007.

Title: Mediterranean Associated Conferences.

Parties:

Greece/U.S. Atlantic and Gulf Conference

Mediterranean/North Pacific Coast Freight Conference

Mediterranean/U.S.A Freight Conference

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements. It would also make certain nonsubstantive changes to the language of the agreement.

Agreement No.: 212–010265–003.

Title: Lloyd/Nacional Association Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro

Comphanhia Maritima Nacional

Synoposis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements.

Agreement No.: 226–010379–002.

Title: Equipment Interchange and Lease Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro

Companhia Maritima Nacional

Companhia de Navegacao Maritima Netumar

Ivaran Line

United States Lines, S.A.

Empresa Lineas Maritimas Argentinas, S.A.

Forta Amazonica, S.A.

The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements.

Agreement No.: 202–0101776–001.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.

Barber Blue Sea

Evergreen Marina Corp. (Taiwan), Ltd.

Hanjin Container Lines, Ltd.

Hapag-Lloyd Trans-Pacific Service

Hong Kong Islands Line

Japan Line, Ltd.

Kawaski Kisen Kaisha, Ltd.

Korea Marine Transport Co., Ltd.

Lykes Bros. Steamship Co., Inc.

A.P. Moller-Maersk Lines

Mitsui O.S.K. Lines, Ltd.

Neptune Orient Lines

Nippon Yusen Kaisha Line

Orient Overseas Container Lines, Inc.

Sea-Land Service, Inc.

Showa Line, Ltd.

United States Lines, Inc.

Yamashita-Shinnihon Steamship Co., Ltd.

Zim Israel Navigation Co. Ltd.

Synopsis: The proposed amendment would permit the parties to disassociate themselves from agreement rate reductions on other than 24 hours notice. The parties have requested a shortened review period.

Agreement No.: 202–010776–002.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.

Barber Blue Sea

Evergreen Marine Corp. (Taiwan), Ltd.

Hanjin Container Lines, Ltd.

Hapag-Lloyd Trans-Pacific Service

Hong Kong Islands Line

Japan Line, Ltd.

Kawaski Kisen Kaisha, Ltd.

Korea Marine Transport Co., Ltd.

Lykes Bros. Steamship Co., Inc.

A.P. Moller-Maersk Lines

Mitsui O.S.K. Lines, Ltd.

Neptune Orient Lines

Nippon Yusen Kaisha Line

Orient Overseas Container Line, Inc.

Sea-Land Service, Inc.

Showa Line, Ltd.

United States Lines, Inc.

Yamashita-Shinnihon Steamship Co., Ltd.

Zim Israel Navigation Co. Ltd.

Synopsis: The proposed amendment would permit the parties to prohibit limit for set standards for the use of individual service contracts coming within the scope of the agreement.

Agreement No.: 202–010776–003.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.

Barber Blue Sea

Evergreen Marine Corp. (Taiwan), Ltd.

Hanjin Container Lines, Ltd.

Hapag-Lloyd Trans-Pacific Service

Hong Kong Islands Line

Japan Line, Ltd.

Kawasaki Kisen Kaisha, Ltd.

Lykes Bros. Steamship Co., Inc.

A.P. Moller-Maersk Lines

Mitsui O.S.K. Lines Ltd.

Neptune Orient Lines

Nippon Yusen Kaisha Line

Orient Overseas Container Line, Inc.

Sea-Land Service, Inc.

Showa Line, Ltd.

United States Lines, Inc.

Yamashita-Shinnihon Steamship Co., Ltd.

Zim Israel Navigation Co. Ltd.

Synopsis: The proposed amendment would establish an Appendix B, setting forth administrative regulations governing the agreement.

Agreement No.: 224–010834.

Title: Baltimore Terminal Agreement.

Parties:

Maryland Port Administration (MPA)

Lumber Terminals, Inc. (LTI)

Synopsis: The agreement provides for the lease by the MPA to LTI of 13.05 acres of land situated in Dundalk Terminal along with 6.549 acres on an as needed overflow basis. LTI shall also have access to the existing ship berths along the bulkhead bordering on Colgate Creek and the Patapsco River. All the premises are located within the Port of Baltimore. LTI shall use the premises for the receipt, handling and storage of lumber, building materials of wood origin and forest products for subsequent distribution to the wholesale and retail trade. The term of the lease shall be for one year.

Agreement No.: 224–010835.

Title: Portland Terminal Agreement.

Parties:

The Port of Portland (Port)

Matson Navigation Company, Inc. (Matson)

Synopsis: Agreement No. 224–010835 provides for the preferential use of 8 acres of container yard at the Port's Terminal No. 6 for use by Matson in their Hawaiian trade. The term of the agreement shall be for two years. The agreement defines how dockage and wharfage revenues will be shared between the parties.

By Order of the Federal Maritme Commission.

Dated: October 3, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–24030 Filed 10–7–85; 8:45 am]

BILLING CODE 6730–01–M

Service to the Port of Portland, OR; Enlargement of Time To File Replies

By Notice published in the **Federal Register** on September 11, 1985 (50 FR 37053), the Commission advised of the filing of a petition by the Trans-Pacific Freight Conference of Japan, and gave interested parties until October 7, 1985, to reply to the petition. The petition asks the Commission to set aside the provisions of the October 29, 1973, Order in Docket No. 70–19, *Intermodal Service to Portland, Oregon* (17 FMC 141) which require petitioners to call at Portland directly on at least alternate sailings if they provide indirect overland service to Portland.

The Port of Portland, Oregon has requested a thirty-day enlargement of time to reply to the Petition, in order to permit continuation off attempts to amicably resolve with petitioners the issue raised in their Petition, and, should a resolution not develop, to provide adequate time to formulate a response to the Petition.

Petitioners have responded that an additional thirty days to reply is unreasonable and has not been justified, but they have no objection to a two-week enlargement of time, which they believe should be limited to the Port of Portland.

A two-week enlargement of time will be granted to all interested parties. Such replies (original and fifteen copies) shall be filed on or before October 21, 1985. Replies shall also be served on filing counsel: Charles F. Warren, Warren & Associates, P.C., 1100 Connecticut Avenue, NW, Washington, DC 20036.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–24038 Filed 11–7–85; 8:45 am]

BILLING CODE 6730–01–M

[Agreement No. 224–004173–001]

Agreement Between Indiana Port Commission and Merchants Grain Elevator Partners—Series II; Correction

The **Federal Register** Notice published on September 5, 1985, (Vol. 50, No. 172, Pg. 36147), covering Agreement No. 224–004173–001 inadvertently indicated that the parties to the agreement are the Indiana Port Commission and Merchants Grain and Transportation, Inc. It should have read that the parties are the Indiana Port Commission and Merchants Grain Elevator Partners—Series II. The agreement indicates the assignment of Merchants Grain and Transportation Inc.'s interest in the original lease to Grain Elevator Partners—Series II. By Order of the Federal Maritime Commission.

Dated: October 3, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–24031 Filed 10–7–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

October 2, 1985.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Office—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880).

Proposal to approve under OMB delegated authority the extension with revision of the following reports:

1. Report title: Report of Commercial Paper Outstanding Placed by Brokers and Dealers, Report of Commercial Paper Outstanding Placed Directly by Issuers, and Daily Report of Offering Rates on Commercial Paper
Agency form number: FR 2957a, b, and d
OMB Docket number: 7100–0002
Frequency: Daily, Weekly, Monthly (3 reports)
Reporters: Securities Brokers and Dealers and Direct Issuers of Commerical Paper Small businesses are not affected.
General description of report: This information collection is voluntary (12 U.S.C. 353 et. seq.) and is given confidential treatment (5 U.S.C. 552(b)(4)).

These reports provide information on the amount outstanding and selected offering rates on commercial paper, which is used by the Federal Reserve in monitoring developments in the commercial paper market for supervisory, regulatory, and monetary policy purposes.

Board of Governors of the Federal Reserve System, October 2, 1985.

William Wiles,

Secretary of the Board.

[FR Doc. 85–23988 Filed 10–7–85; 8:45 am]

BILLING CODE 6210–01–M

Banc One Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 request for a hearing on this question must be accompanied by 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 the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 28, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to engage *de novo* through its subsidiary, Bank One Investment Services Corporation, Columbus, Ohio,

in providing securities brokerage services solely for the account and on the order of customers pursuant to § 225.25(b)(15) of Regulation Y.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Sloan State Corporation*, Sloan, Iowa; to engage *de novo* directly in making or acquiring loans and other extensions of credit such as would be made by a commercial financial company. These activities would be conducted in the states of Minnesota and Iowa.

2. *Gary-Wheaton Corporation*, Wheaton, Illinois; to engage *de novo* through its subsidiary, Gary-Wheaton Stock Brokerage, Incorporated, Wheaton, Illinois, in providing securities brokerage services presently being performed by Gary-Wheaton Bank pursuant to § 225.25(b)(15) of Regulation Y.

Board of Governors of the Federal Reserve System, October 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-23989 Filed 10-7-85; 8:45 am]

BILLING CODE 6210-01-M

Banc One Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1824) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. 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 is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. 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, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 28, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to acquire 100 percent of the voting shares of First-Union Bank, N.A., Bellaire, Ohio.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Louisiana Bancshares, Inc.*, Baton Rouge, Louisiana; to acquire 100 percent of the voting shares of Terrebonne Bank & Trust Company in Houma, Houma, Louisiana.

2. *Washington-Wilkes Corporation*, Washington, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Merchants Bank, Washington, Georgia.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Silver Lake Bancorporation, Inc.*, Silver Lake, Minnesota; to acquire 100 percent of the voting shares of First State Bank of Lake Wilson, Lake Wilson, Minnesota.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Merchants Bancorporation*, Topeka, Kansas; to merge with Crown Bancshares, Inc., Lawrence, Kansas (parent of First National Bank of Lawrence, Lawrence, Kansas. Comments of this application must be received not later than October 30, 1985.

Board of Governors of the Federal Reserve System, October, 1, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-23990 Filed 10-7-85; 8:45 am]

BILLING CODE 6210-01-M

Commercial Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. 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 is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 30, 1985.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Commercial Bancshares, Inc.*, Jersey City, New Jersey; to acquire 100 percent of the voting shares of First Bank of Colonia, Colonia, New Jersey.

2. *The Summit Bancorporation*, Summit, New Jersey; to acquire 100 percent of the voting shares of Bay State Bank, Ship Bottom, New Jersey. Comments on this application must be received not later than October 23, 1985.

B. **Federal Reserve Bank of Cleveland** Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Wesbanco, Inc.*, Wheeling, West Virginia; to acquire 100 percent of the voting shares of Wellsburg National Bank, Wellsburg, West Virginia. Comments on this application must be received not later than October 31, 1985.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Associated Banc-Corp*, Green Bay, Wisconsin; to acquire 100 percent of the voting shares of Memorial Drive Bank, Sheboygan, Wisconsin.

2. *Valley Bancorporation*, Appleton, Wisconsin; to acquire 80 percent or more of the following banks: First National Bank of Minocqua and Woodruff, Minocqua; The Commercial Bank, Chilton; Peshtigo State Bank, Peshtigo; and First National Bank & Trust Co. of Beaver Dam, Beaver Dam, all located in Wisconsin.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *1st Bancorp Vienna*, Vienna, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Vienna, Vienna, Illinois.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Chisholm Trail Financial Corporation*, Wichita, Kansas; to acquire 100 percent of the voting shares of Derby Financial Corporation, Derby, Kansas, thereby indirectly acquiring First National Bank of Derby, Derby, Kansas.

Board of Governors of the Federal Reserve System, October 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-23991 Filed 10-7-85; 8:45 am]

BILLING CODE 6210-01-M

J.P. Morgan & Co. Inc.; Proposal To Underwrite and Deal In Certain Securities to a Limited Extent

J.P. Morgan & Co. Incorporated, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage through J.P. Morgan Securities Inc. ("JPMS") and J.P. Morgan Municipal Finance Inc. ("JPMMF"), subsidiaries of Applicant's wholly-owned subsidiary, J.P. Morgan Securities Holdings Inc., in the activities of underwriting and dealing in, to a limited extent, the following securities that banks are not eligible to underwrite and deal in under the Glass-Steagall Act (hereinafter "ineligible securities"):

(1) Commercial paper (through JPMS);

(2) Municipal revenue bonds (obligations issued or guaranteed by a state or any political subdivision thereof, including industrial development bonds, as to which the issuer of the governmental unit on behalf of which the industrial development bonds are issued is treated for federal tax purposes as the owner of the facility financed by bond proceeds) (through JPMMF); and

(3) Mortgage-related securities (certificates representing fractional undivided beneficial ownership interests in promissory notes secured by residential real estate mortgages and obligations collateralized by pass-through certificates of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Government National Mortgage Association or by residential mortgage whole loans, where the debt service requirement for these obligations are met by the cash flow from the pledged mortgage collateral) (through JPMS).

JPMS and JPMMF, which is a wholly-owned subsidiary of JPMS, were formed by Applicant in 1985 and have previously applied for approval under § 225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)) to underwrite and deal in securities that banks are expressly authorized to underwrite and deal in under section 16 of the Glass-Steagall Act (12 U.S.C. 24 Seventh), including U.S. Government obligations and general obligations of states and their political subdivisions The foregoing activities are presently conducted by Applicant's principal banking subsidiary, Morgan Guaranty Trust Company of New York, but would be transferred from the bank to JPMS and JPMMF. Thereafter and upon consummation of the proposal, JPMS and JPMMF would commence underwriting and dealing in ineligible securities subject to the limitations set forth in the application. The activities would be performed through Company's offices in New York, serving customers in the United States and abroad.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has not previously approved the proposed activities for bank holding companies.

Applicant states that the proposed activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis of its belief that banks engage in activities that are the same as or are functionally and operationally similar to those involved in the application. Applicant maintains that permitting bank holding companies to engage in the proposed activities would be procompetitive and would enable holding companies to serve more effectively the needs of their issuer clients and that existing regulation or Applicant's internal practices would prevent the occurrence of adverse effects.

The application also presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Morgan Guaranty Trust Company of New York, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities.

Applicant states that it would not be "engaged principally" in such activities on the basis of restrictions that would limit the amount of the proposed activity relative to the total market in such activity and relative to the total business conducted by JPMS and JPMMF. Applicant would limit the volume of municipal revenue bonds and mortgage-related securities underwritten in each calendar year to no more than 3 percent of the total amount of each such type of security underwritten domestically by all firms during the prior calendar year; and would limit the extent to which JPMS and JPMMF deal in those securities such that the amount of each type of security held by JPMS and JPMMF for dealing would not exceed at any time 3 percent of the total amount of such type of security underwritten domestically by all firms during the prior year.

With respect to commercial paper securities, Applicant would limit the amount of that security outstanding at any time underwritten by JPMS, and the amount of that security held in inventory on any day, to not more than 10 percent of the average amount of dealer-placed commercial paper outstanding during the previous four calendar quarters. Applicant would reduce this limit from 10 percent to 3 percent if the Board determines that such a reduction in market share is legally required.

In addition, JPMS would limit the proposed activities such that they would not, during any rolling two-year period, exceed 15 percent of JPMS's total business, measured on a consolidated basis with that of its subsidiary, JPMMF. JPMS proposes to measure the extent to which its total business is attributable to the proposed activity in ineligible securities by comparing:

(1) The dollar volume of underwriting commitments (or underwriting sales if larger) and dealer sales attributable to ineligible securities activities with the total dollar volume of all of JPMS's activities;

(2) The average assets acquired in connection with ineligible securities activities with the average assets acquired in connection with all of JPMS's activities; and

(3) The gross income (*i.e.*, income before expenses and taxes) from ineligible securities activities with the gross income from all of JPMS's activities.

The proposed limitation of 15 percent of total business would be met if two of the above three tests were satisfied.

While the Board has decided to publish J.P. Morgan's proposal for comment, the Board does not thereby take any position on the "engaged principally" issue under the Glass-Steagall Act or other issues raised by the proposal under the Bank Holding Company Act. Publication of the proposal has been ordered by the Board solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal is consistent or inconsistent with the Glass-Steagall Act

or that the proposal meets or is likely to meet the standards of the Bank Holding Company Act.

Comments are requested on the scope of activity permitted by the phrase "engaged principally" under the Glass-Steagall Act, including whether the phrase contemplates the type of limitations involved in this application, which are based on the Applicant's market share and on a percentage of the affiliate's total business activities. The Board also seeks comment on whether the term "engaged principally" in section 20 would preclude a member bank affiliate from engaging in activities restricted by this section on a substantial and regular or non-incidental basis and without regard to the amount of other activities conducted by the affiliate.

Comments are also requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole 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."

Upon the expiration of the public comment period, depending upon the comments received, the Board may wish first to consider the legal issue presented by the application under the Glass-Steagall Act in order to determine whether there is a legal basis for considering whether the activities could be permitted for a bank holding company under the Bank Holding Company Act.

Any request for a hearing on these questions must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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 the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 20, 1985.

Board of Governors of the Federal Reserve System, October 2, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-23992 Filed 10-7-85; 8:45 am]

BILLING CODE 6210-01-M

Maryland National Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act 12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless othewise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the questions 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 outweight possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifcially 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 the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 22, 1985.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation*, Baltimore, Maryland; to acquire Firstmark Arvada Industrial Bank, Arvada, Colorado, and Firstmark Cherry Creek Industrial Bank, Denver, Colorado, and engage in the industrial banking business, including the making of loans and the issuance of thrift and passbook accounts. These activities would be conducted in Arcada and Denver, Colorado.

Board of Governors of the Federal Reserve System, October 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-23993 Filed 10-7-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85F-0430]

Shell Oil Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Shell Oil Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyalkylacrylate as a component of petroleum wax used in food and in nonfood articles in contact with food.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

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 5A3885) has been filed by Shell Oil Co., Suite 200, 1025 Connecticut Ave. NW., Washington, DC 20036, proposing that the food additive regulations be amended to provide for the safe use of polyalkylacrylate as a component of petroleum wax used in food and in nonfood articles in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: September 30, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-23957 Filed 10-7-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85F-0440]

Union Carbide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Union Carbide Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of olefin terpolymers from ethylene, either hexene-1 or 4-methylpentene-1, and either propylene or butene-1, as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), 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 5B3880) has been filed by Union Carbide Corp., P.O. Box 870, Bound Brook, NY 08805, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for the safe use of olefin terpolymers from ethylene, either hexene-1 or 4-methypentene-1, and either propylene or butene-1, as articles or components of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting the finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: September 30, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-23959 Filed 10-7-85; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration of Aging, Office of Human Development Services, HHS.

ACTION: Notice of Amendment to Statement of Organization, Functions, and Delegations of Authority.

SUMMARY: This notice amends Part D of the statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services (OHDS), Administration on Aging, Office of Program Development (47 FR 54555), to: (1) Combine the functions of the Division of Education and Training and the Division of Services Systems Development into a new Division of Training and Development, and (2) to revise the description of functions for the Division of Research and Demonstrations.

EFFECTIVE DATE: October 8, 1985.

FOR FURTHER INFORMATION CONTACT: Donald Smith, Director, Office of Management and Policy Control, Administration on Aging.

Amendment to Part D, Chapter DG, Administration on Aging, Office of Program Development.

The (E.1.) Division of Research and Demonstrations (DGD1), (E.2.) Division of Education and Training (DGD2), and (E.3.) Division of Services Systems Development (DGD3), as published in the **Federal Register** on December 3, 1982 (47 FR 54555) are deleted in their entirety and replaced by the following:

E.1. *Division of Research and Demonstrations* elicits new knowledge and techniques to improve the circumstances of older Americans.

Develops the research and the demonstration components of the knowledge building plan and the Operational Plan for the research and the demonstration activities of AoA. Administers the research and demonstration programs authorized under Title IV of the OAA, including proposing strategies, developing concept papers and carrying out all other implementation activities for the program. Provides technical input for Congressional and budget presentations related to the research and demonstration programs.

Evaluates research and demonstration grant and contract proposals, recommends approval or disapproval, monitors progress, gives technical guidance to and evaluates the performance of grantees and contractors.

Through the Office of State and Tribal Programs, provides technical direction to the Regional Office in their guidance and monitoring of sub-national research grantees and contractors and demonstration grantees and contractors. Analyzes and interprets project results and recommends technical applications. Promotes coordination of research and demonstrations with other national, regional and local programs related to aging.

E.2. *Division of Training and Development* plans, manages and assesses AoA's activities to assure trained staff for programs serving older Americans; develops services and systems guidelines and implements strategies for improving services and developing new services.

Administers a program through grants and contracts for developing curricula and providing training related to preparation for professional, teaching, research, and paraprofessional careers in the field of aging.

Makes grants for planning, developing, and operating multidisciplinary centers of gerontology designed to serve the purposes set forth under Title IV of the OAA, including the monitoring of such grants on a continuing basis.

Provides technical assistance and consultation on education and training needs and programs to States and educational institutions and organizations at all levels. Develops criteria for evaluating the project results and performance effectiveness of education and career training grantees and contractors, and, upon request by the Office of State and Tribal Programs, gives technical assistance to the Regional Offices in their guidance and monitoring of training grants and contracts.

Develops and administers a program in staff development and continuing education for personnel in the field of aging and for established professional and paraprofessional personnel in related fields who seek to develop competencies for work in the field of aging. Proposes strategies for the program; develops the Operational Plan; develops material for Congressional and budget presentations; and promotes coordination of the program with other national, regional and local programs related to aging.

In consultation with the Office of State and Tribal Programs, allocates manpower development funds to State Agencies in conducting and supporting short term training for aging network personnel and personnel of provider agencies, including lay volunteers, to

improve their competencies for serving older people. Develops material on personnel needs and job requirements in the field of aging. Develops criteria, techniques and instruments for evaluating continuing education programs.

Develops standards, optional models, and "best practice" suggestions on services to the elderly for use by the Regional Offiices, and State and Area Agencies on Aging. Division training specialists contribute subject matter expertise to the development of technical assistance materials and in-service training curricula concerning these standards, models, and best practice suggestions.

Develops and implements new initiatives in a wide range of program and management areas. Provides subject matter expertise in negotiation of agreements with other Federal and non-Federal public agencies and organizations to implement the interagency agreements within the Division's subject matter area.

Promotes, assists and assesses the development of information and referral services for the aging, within AoA, the Department, other Federal agencies, State and Area Agencies on Aging, State Social Services agencies, other non-Federal public and private agencies, and organizations associated with the service-providing network. Develops policy issuances on Information and Referral (I&R) matters for both professional and public audiences. Provides secretarial services for the Interdepartmental Task Force on I&R. Analyzes the need for and results of research in I&R.

Provides technical input to the AoA planning and policy development activities, legislative activities and the annual budget development cycle on a wide range of program matters and develops and implements the Long Term Care Operational Plan. Implements approved strategies for improving the quality of facilities, programs and services related to long term care for the nation's older population. Maintains information on programs in other Federal agencies and national voluntary agencies which have potential for relating to these strategies. Participates in Departmental and interdepartmental activities which concern health and social services related to long term care; reviews and comments on Departmental regulations and policies regarding health programs and institutional and non-institutional long term care services.

Dated: September 23, 1985.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 85-24005 Filed 10-7-85; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

National Toxicology Program

Chemicals (5) Nominated for Toxicological Studies; Request for Comments

SUMMARY: On July 30, 1985, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review five chemicals nominated for toxicology studies and to recommend the types of testing to be performed. With this notice, the NTP solicits public comment on the five chemicals listed herein.

FOR FURTHER INFORMATION AND SUBMISSIONS OF COMMENTS, CONTACT: Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892 (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register**. This is done to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response to this request are reviewed and summarized by NTP technical staff, are forwarded to the NTP Board of Scientific Counselors for use in their evaluation of the nominated chemicals, and then to the NTP Executive Committee for its decision-making about testing. The NTP chemical selection process is summarized in the **Federal Register**, April 14, 1981 (46 FR 21818), and also in the NTP FY 1984 *Annual Plan*, pages 185-186.

Chemical	CAS No.	Committee recommendation
1. 2-Butoxyethanol acetate.	112-07-2	Inhalation chemical disposition study.
2. 2-Ethoxyethanol acetate.	111-15-9	Inhalation chemical disposition study.
3. 2-Methoxyethanol acetate.	110-49-6	Inhalation chemical disposition study.
4. 2-Ethoxyethanol	110-80-5	Inhalation chemical disposition study.
5. 2-Methoxyethanol	109-86-4-	Inhalation chemical disposition study. Inhalation carcinogenicity and toxicity studies, including testing for hematological, immunological and neurological effects.

The CEC reviewed the three ethylene glycol ether acetates as a group. The committee recommended comparative chemical disposition studies by the inhalation route for the acetates and the three parent ethylene glycol ethers in order to determine whether the acetates are hydrolyzed to the parent compounds and then distributed, metabolized and excreted equivalently to the parent compounds. (2-Butoxyethanol was recently selected as one of the NTP Fiscal Year 1985 priority compounds for in-depth toxicological evaluation.) After the completion of these studies the need for further testing of the glycol ether acetates would be determined. Four of the five compounds have been previously selected for some type of toxicological study by the NTP. 2-Ethoxyethanol was not mutagenic in the *Salmonella* assay in strains TA98, TA1537, TA1535 and TA100 with and without metabolic activation, and also in the *Drosophila* sex-linked recessive lethal mutation assay. In the *in vitro* cytogenetics assays using Chinese hamster ovary cells, 2-ethoxyethanol induced both chromosomal aberrations and sister chromatid exchanges. A gavage car-cinogenicity study on 2-ethoxyethanol is in the histopathology phase. The NTP has conducted a number of reproductive and teratology studies on 2-ethoxyethanol acetate, 2-methoxyethanol acetate, 2-ethoxyethanol, and 2-methoxyethanol.

Interested parties are requested to submit pertinent information.

The following types of data are of particular relevance:

(1) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and, results in the case of completed studies.

(2) Modes of production, present production levels, and occupational exposure potential.

(3) Uses and resulting exposure levels, where known.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by (thirty days after date of publication). Any submissions received after the above date will be accepted and utilized where possible.

Dated: October 2, 1985.

David P. Rall, M.D., Ph.D.,

Director, National Toxicology Program.

[FR Doc. 85-23967 Filed 10-7-85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT PRMP/FEIS 85-39]

Esmeralda-Southern Nye Proposed Resource Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior

ACTION: Amendment of Protest Period.

SUMMARY: The ending date of the protest period for the Esmeralda-Southern Nye PRMP/FEIS has been changed to November 11, 1985.

SUPPLEMENTARY INFORMATION: Notice of Availability and protest period date was published October 2, 1985, Vol. 50, page 40237 of the Federal Register. This notice is to amend the protest period ending date from November 4, 1985 to November 11, 1985. Protests must be made in writing to the Director, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Willliam Calkins, Acting District Manager, Attn: RMP/EIS Project Manager, Las Vegas District Office, P.O. Box 26569, Las Vegas, Nevada, 89126 (702) 388-6403.

Dated: October 2, 1985.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 85-23937 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-HC-M

Coeur d'Alene District Office, Idaho; Special Management Designation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the authority in Title 43 Code of Federal Regulations 8000.0-4, certain lands administered by the Bureau of Land Management, Emerald Empire Resource Area, known as Hideway Islands, are designated a research natural area to be managed in accordance with Title 43 CFR 8223. This designation applies to all lands the surface of which is administered by the Bureau of Land Management located within Sec. 21, T.62N, R.2E., B.M. BLM land encompassed by this description includes approximately 170 acres consisting of two unsurveyed islands located in the Kootenai River. They are situated between river mile 158 and 159 which is upstream and east of Bonners Ferry, Idaho and about two and one-half river miles downstream from the mouth of the Moyie River.

This area is designated for special management to preserve the existing plant communities in an unmodified condition as a typical representation of a black cottonwood/red-osier dogwood habitat type for the primary purpose of research and education. The area will be managed in a non-destructive and non-manipulative manner in accordance with provisions of a site-specific management plan. Specific use restrictions may be established by separate, subsequent orders.

This designation becomes effective immediately and will remain in effect until revoked or rescinded.

Signed at Coeur d'Alene, Idaho, this 30th day of September, 1985.

Wayne Zinne,

District Manager, Coeur d'Alene District.

[FR Doc. 85-24012 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-GG-M

Coeur d'Alene District, Cottonwood Resource Area, Idaho; Vehicle Restriction Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Title 43, Code of Regulations, 8364.1 that vehicle use on all lands having access from the Denny Creek Road is limited to existing roads and skid trails which are not otherwise posted as closed. The affected lands are located within sections 1, 2, and 3, T.22N., R.1E., B.M.; and sections 1, 3, 10, 11, 12, 14, 15, 22, 23, 26, 27, 33, 34, 35, T.23N., R.1E., B.M. Maps depicting the restricted area are available for public inspection at the BLM, Cottonwood Resource Area Headquarters, Rt. 3, Box 181, Cottonwood, Idaho and the BLM, Coeur d'Alene District Office, 1808 North Third, Coeur d'Alene, Idaho.

This restriction is necessary to preclude trespass on adjacent private lands until such time as the area can be properly gated and signed and to preclude the possibility of human-caused wildfires, erosion due to soil disturbance, and unauthorized firewood cutting. This restriction does not apply to:

(1) Any Federal, State or local official or member of an organized rescue or fire fighting force while in the performance of an official duty.

(2) Any BLM employee, agent, contractor or cooperator while in the performance of an official duty.

(3) Any person who is expressly authorized by the Authorized Officer to operate a vehicle in the closed area for private residence ingress or egress.

This restriction becomes effective immediately and will remain in effect until revoked or rescinded.

Signed this 10th day of September, 1985 at Coeur d'Alene, Idaho.

Wayne Zinne,

District Manager, Coeur d'Alene District.

[FR Doc. 85-24011 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-GG-M

[AZ 020-GP5-018]

Intent To Prepare a Planning Analysis of Certain Lands in the Phoenix District, AZ

AGENCY: Bureau of Land Management (BLM) Interior.

ACTION: Notice of Intent.

SUMMARY: The Planning Analysis will identify scattered lands in the Phoenix District which may be suitable for exchange under provisions of Section 206 of the Federal Land Policy and Management Act of 1976. Under consideration are the approximately 250,000 acres not included in current District Management Plans located in Apache, Navajo, Yavapai, Maricopa, Pinal, Pima, Santa Cruz, Coconino and Mohave counties.

The Environmental Assessment generated during the analysis will identify possible issues relating to wildlife and riparian habitat, cultural values, threatened and endangered species, range and minerals. Issue identification will be the responsibility of the Phoenix Resource Area staff.

Public Participation

Information concerning the Planning Analysis may be obtained from the Area Manager, Phoenix Resource Area, 2015 W. Deer Valley Road, Phoenix, Arizona 85027 (phone 602-863-4464) or interested parties may submit written comments to the Area Manager for a period of thirty (30) days following this announcement.

Public discussion of issues relating to the Planning Analysis is invited during a meeting October 23, 1985 from 2 p.m. until 6 p.m. at the Phoenix District

Office, 2015 W. Deer Valley Road, Phoenix, Arizona.

Dated: September 30, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85-24022 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-32-M

[I-22099]

Realty Action; Direct Sale of Public Land in Blaine County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described land has been examined, and through land use planning and public input has been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976. The lands when sold will be sold for not less than the appraised fair market value.

The subject land is being sold to Blaine County based on historic use, adjacent land use, and value added by them on the land. Failure of the proponent to submit a sealed bid will result in cancellation of the direct sale and the lands will be withdrawn from sale and continue under management by the BLM. The following public lands are involved with this action:

T. 3 N., R. 18 E., Boise Meridian, Blaine County, Idaho

Section 10: SE¼NE¼SW¼SW¼, S½N½ SE¼SW¼, SE¼SW¼SW¼, W½SW¼ SE¼SW¼, NE¼SW¼SE¼SW¼, NW¼SE¼SE¼SW¼

Section 15: E½NW¼NW¼, SE¼NW¼ NW¼NW¼, NE¼SW¼NW¼NW¼, S½SW¼NW¼NW¼, N½SW¼NW¼, N½S½SW¼NW¼, SW¼SW¼ SW¼NW¼

Containing 95 acres.

A patent for the land, when issued, shall be subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. All minerals including Geothermal Resources and Oil & Gas shall be reserved to the United States, as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record, at the time of sale.

Upon publication of this Notice in the **Federal Register**, the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws.

A sealed bid must be received in this office no later than 1:00 p.m., December 13, 1985. A bid for less than the fair market value will not be accepted and will constitute forfeiture of direct sale privileges to the proponent. One fifth of the full bid price must accompany the bid. Full payment for the balance of the bid shall be within 180 calendar days from the date of the sale. Failure to submit such payment shall result in cancellation of the sale to the proponent.

DATE AND ADDRESS: The sale offering will be held on December 13, 1985, at 1:00 p.m. in the Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale can be obtained by contacting Mike Austin at (208) 886-2206 or writing to BLM, P.O. Box 2B, Shoshone, Idaho 83352.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit written comments to the Shoshone District Manager at the above address.

Dated: September 27, 1985.

Jon Idso,

Acting District Manager.

[FR Doc. 85-24019 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-GG-M

Realty Action; Proposed Lease of Public Land in San Juan County, UT

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of realty action.

SUMMARY: A parcel of land is being considered for lease under section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762; 43 U.S.C. 1732). The parcel includes approximately 28 acres of public land in San Juan County, Utah east of the section line and west of San Juan County Road #150 within the following described land:

T. 29 S., R. 24 E., Salt Lake Meridian, Utah

Section 1, W½SW¼SW¼NW¼, W½W½W½SW¼;

Section 12, W½W½W½NW¼

Hardy Redd, the adjacent property owner, has applied for a 40-year agricultural lease under application MD-85-GR-020L to extend irrigation and cultivation beyond his property line to the San Juan County Road #150. An encroachment permit has been obtained from the county. The parcel would be offered to him for direct, noncompetitive lease at no less than fair market rental. The size, configuration and location of the parcel limits other potential uses or users. The lease would be subject to all valid existing rights.

For a period of 30 days from publication of this notice, interested parties may submit comments to the Moab District Manager, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the BLM Utah State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: September 26, 1985.

C. Delano Backus,

Acting District Manager.

[FR Doc. 85-24024 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-DQ-M

[WSA #UT-060-068A]

Announcement of Thirty-day Comment Period on Draft Environmental Assessment, Desolation-Gray Wilderness Study Area, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of 30-day comment period on Draft Environmental Assessment analyzing impacts from a proposed water diversion project, right-of-way application U-48624, located within the Desolation-Gray Wilderness Study Area (WSA #UT-060-068A), Utah.

SUPPLEMENTARY INFORMATION: Mr. T. N. Jensen, Price, Utah has submitted a right-of-way application (U-48624) to construct a water diversion structure on Rock Creek. The proposal area is located within Salt Lake Meridian, township 15 south, range 17 east, sections 5 and 6. A draft environmental assessment has been written to analyze the impacts from the proposed action.

For a period of 30-days from the date of publication of this notice, interested parties may comment on the proposal.

Legal Authority: Federal Land Policy and Management Act of 1976, section 603 (90 Stat. 2785, 43 U.S.C. 1782) and Interim Management Policy.

WSA Name: Desolation-Gray (UT-060-068A).

Proposed Action: To grant a right-of-way for a water diversion structure.

FOR FURTHER INFORMATION CONTACT: Jim Kenna, Area Recreation Specialist or Mark Mackiewicz, Area Realty Specialist, 801-637-4584, Bureau of Land

Management, P.O. Drawer AB, Price, Utah 84501.

A copy of the draft environmental assessment is available upon request.

Dated: September 26, 1985.

C. Delano Backus,

Acting District Manager.

[FR Doc. 85-24025 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-DQ-M

Idaho Falls, District; Availability of the Rangeland Program Summary Update on the Little Lost/Birch Creek Environmental Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Rangeland Program Summary Update on the Little Lost/Birch Creek Environmental Statement to aid in the management of rangelands in the Big Butte Resource Area.

The purpose of this update is to provide a current summary of the decisions and management actions identified in the 1979 Little Lost/Birch Creek Land Use Plan and Environmental Statement (ES). This includes the adjusting of stocking rates, implementing grazing systems, constructing range improvements and conducting monitoring studies.

Copies of the Rangeland Program Summary Update are available for review at the following location.

FOR FURTHER INFORMATION CONTACT: O'dell A. Frandsen, Buueau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401; Telephone: (208) 529-1020.

O'dell A. Frandsen,

District Manager.

September 30, 1985.

[FR Doc. 85-24023 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-GG-M

[C-5-85]

California; Filing of Plat of Survey

September 30, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Diego County

T. 11 S., R. 3 W.

2. This supplemental plat of section 9, Township 11 South, Range 3 West, San Bernardino Meridian, California, showing amended lotting created by the cancellation of the mineral segregation survey of the Mountain Belle lode, is based upon the plat approved December 14, 1885 and the plat accepted March 19, 1937, was accepted September 12, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records & Information Section.

[FR Doc. 85-24017 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 848]

California; Filing of Plat of Survey

September 30, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Nevada County

T. 1 N., R. 16 E.,
T. 1 S., R. 17 E.

2. These plats, representing the dependent resurvey of the Mount Diablo Base Line along a portion of the south boundary, and a portion of the east boundary, of Township 1 North, Range 16 East, Mount Diablo Meridian, and the dependent resurvey of the Mount Diablo Base Line along a portion of the north boundary, and a portion of the west boundary, of Township 1 South, Range 17 East, Mount Diablo Meridian, under Group No. 848, California, were accepted September 11, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management and the Department of Agriculture, U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records & Information Section.

[FR Doc. 85-24018 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 861]

California; Filing of Plat of Survey

September 30, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Imperial County

T. 11 S., R. 10 E.

2. This plat, representing the dependent resurvey of a portion of the west and north boundaries, and a portion of the subdivisional lines, Township 11 South, Range 10 East, San Bernardino Meridian, under Group No. 861, California, was accepted September 9, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records & Information Section.

[FR Doc. 85-24013 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 885]

California; Filing of Plat of Survey

September 30, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Modoc County

T. 39 N., R. 9 E.

2. This plat, representing the dependent resurvey of a portion of the east and north boundaries, and a portion of the subdivisional lines, and the survey of the subdivision of sections, 4, 5, 13, and 14, Township 39 North, Range

9 East, Mount Diablo Meridian, under Group No. 885, California, was accepted September 18, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records & Information Section.

[FR Doc. 85-24014 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-40-M

[C-15-85]

California; Filing of Plat of Survey

September 30, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Nevada & Placer County

T. 15 N., R. 10 E.

2. This supplemental plat of the NE¼ NW¼, section 33, Township 15 North, Range 10 East, Mount Diablo Meridian, California, showing amended lotting, is based upon the plats accepted February 7, 1928, November 9, 1950, and May 10, 1961, was accepted September 19, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management and the Department of Agriculture, U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records & Information Section.

[FR Doc. 85-24015 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 860]

California; Filing of Plat of Survey

September 30, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Plumas County

T. 23 N., R. 8 E.

2. This plat, representing the dependent resurvey of the North Butte Bar Quartz Claim, Mineral Survey No. 3730, Township 23 North, Range 8 East, Mount Diablo Meridian, under Group No. 860, California, was accepted September 12, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records & Information Section.

[FR Doc. 85-24016 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Development Operations Coordination Document; Sonat Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Sonat Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2038, Block 231, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 27, 1985.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 27, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-24026 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Texaco USA

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco USA has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2084, Block 282, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 27, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practice and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 27, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-24027 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention to Extend Concession Permit

Pursuant to the provisions of section 5 of the Act October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession permit with Belle Haven Marina, Inc., authorizing it to continue to provide marina services for the public at George Washington Memorial Parkway, Alexandria, Virginia, for a period of two (2) years from January 1, 1986 through December 31, 1987.

This permit extension has been determined to be categorically excluded from the procedural provisions of the National Environmental policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1985, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the extension of the permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, George Washington, Memorial Parkway, Turkey Run Park, McLean, Virginia 22101, for information as to the requirements of the proposed permit.

Dated: September 25, 1985.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 85-24046 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-70-M

Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with West Park Hospital authorizing it to continue to provide medical services for the public at Yellowstone National Park, Wyoming for a period of five (5) years from November 1, 1985, through October 31, 1990.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on October 31, 1985, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact and Regional Director, Rocky Mountain Region, 655 Parfet Street, P.O. Box 25287, Denver, Colorado, 80225, for information as to the requirements of the proposed contract.

Dated: August 14, 1985.

Jack Neckels,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 85-24047 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-70-M

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 28, 1985. 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 13, 1985.

Carol D. Shull,

Chief of Registration, National Register.

ALASKA

Anchorage, Division

Anchorage, *Potter Section House*, Off AK 1

ARKANSAS

Arkansas County

Menard—Hodges Mounds

CALIFORNIA

Humboldt County

Bald Hills Archeological District Extension, Arcata, *Phillips House*, 71 E. 7th St.

Orange County

Huntington Beach, *Newland House*, 19820 Beach Blvd.

Shasta County

Tower House—Soo-Yeh-Choo-Pus

Solano County

Vacaville, *Buck, Will H., House*, 301 Buck Ave.

CONNECTICUT

Middlesex County

Cromwell, *Main Street Historic District*, Roughly bounded by Prospect Hill Rd., Main, Wall, & West Sts., Stevens & New Lanes, & Nooks Hill Rd.

Fairfield County

Norwalk vicinity, *South Main and Washington Streets Historic District (Boundary Increase)*, 11—15 through 54—60 South Main St.

New Haven County

West Haven, *Old West Haven High School*, 278 Main St.

FLORIDA

Alachua County

Gainesville, *Baird Hardware Company Warehouse*, 619 S. Main St.

Dade County

Miami Springs, *Adams, Carl G., House (Country Club Estates TR)*, 31, Hunting Lodge
Miami Springs, *Clune Building (Country Club Estates TR)*, 45 Curtiss Parkway
Miami Springs, *Curtiss, Lua, House I (Country Club Estates TR)*, 85 Deer Run
Miami Springs, *Curtiss, Lua, House II (Country Club Estates TR)*, 150 Hunting Lodge
Miami Springs, *Hequembourg House (Country Club Estates TR)*, 851 Hunting Lodge
Miami Springs, *Millard-McCarthy House (Country Club Estates TR)*, 424 Hunting Lodge
Miami Springs, *Osceola Apartment Hotel (Country Club Estates TR)*, 200 Azure Way

Palm Beach County

Jupiter Inlet Historic and Archaeological Site

Santa Rosa County

Thomas Creek Archaeological District

LOUISIANA

St. Mary Parish

Morgan City, *Morgan City Historic District*, Roughly bounded by Front, Greenwood, Arkansas, & Railroad Ave.

MASSACHUSETTS

Hampden County

Blandford, *First Congregational Church of Blandford*, North St.

Suffolk County

Boston, *Engine House #35*, 444 Western Ave.

MICHIGAN

Wayne County

Highland Park, *Highland Park General Hospital*, 357 Glendale Ave.

MISSOURI

Jackson County

Lee's Summit *Longview Farm*, 11700 & 850 SW Longview Rd.

MONTANA

Carbon County

Red Lodge, *Warila Boarding House and Sauna*, 20 N. Haggin

Cascade County

Great Falls, *YMCA Building*, 101 First Ave North

Hill County

Havre, *Clack, H. Earl., House*, 532 2nd Ave.

Madison County

Laurin, *St. Mary of the Assumption*, Off MT 287

NORTH CAROLINA

Franklin County

Louisburg vicinity, *Cascine (Boundary Increase)*, N. side SR 172

NORTH DAKOTA

Oliver County

Cross Ranch Archeological District

TEXAS

Travis County

Austin, *Texas Federation of Women's Clubs Headquarters*, 2313 San Gabriel St.

UTAH

Cache County

Hyrum, *Holley—Globe Grain and Milling Company Elevator*, 100 North and Center St.

Davis County

Farmington, *Wilcox, James D., House*, 93 E. 100 North

Iron County

Evans Mound (42IN 40)

Salt Lake County

Copperton, *Utah Copper Company Mine Superintendent's House*, 104 E. State Highway

San Juan County

Bluff, *Adams, Joseph Frederick, House* Off US 163

Utah County

Spanish Fork, *Jones, David H., House*, 143 S. Main

VERMONT

Windham County

Dover, *West Dover Village Historic District*, Rt 100, Valley View, Cross Town, Parsonage, Door Fitch, and Bogle Rds.

WISCONSIN

Eau Claire County

Eau Claire, *Chicago, St. Paul, Minneapolis & Omaha Railroad Depot (Eau Claire MRA)*, 324 Putnam Ave.

[FR Doc. 85-24045 Filed 10-7-85; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Public Meeting on the Proposed Keeline Mine, Campbell County, WY

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

ACTION: Notice public meeting.

SUMMARY: The Office of Surface Mining (OSM) has received a permit application from the Neil Butte Coal Company for a proposed surface coal mining operation to be located in Campbell County, Wyoming, approximately 35 miles south of Gillette, and 12 mines northeast of Wright, Wyoming. The mine would be accessed from the west by the Keeline Road off of County Road T7, just south of the Hilight Gas Plant.

The Keeline Federal coal lease tract was incorporated into the Powder River Final Environmental Impact Statement (EIS), prepared in 1981 by the Bureau of Land Management. The Federal coal lease was issued for the Keeline tract in 1982.

To assist OSM in making its decision on whether a site-specific EIS on the proposed Keeline mine is necessary, a public meeting has been scheduled to obltain information from the public, county and State on potential impacts to the human environment that would result from the proposed mining operation. OSM is particularly interested in receiving information on significant environmental impacts that were not previously analyzed in the Bureau of Land Management's EIS. This meeting may aid OSM in determining the scope of the EIS, if an EIS is subsequently determined to be necessary. See "**DATES**" for details on the time and location of the public meeting. Any written comments on this proposal or on the need for an EIS should be submitted by 4:00 p.m. local time, on November 1, 1985, at the address given below under **ADDRESSES.**"

DATES: A public meeting will be held starting at 7:00 p.m. local time, on October 22, 1985, at the Wright Public Library, Latigo Hills Mall, Wright, Wyoming. All interested parties are invited to attend this meeting and to present their comments and concerns about the proposed project.

ADDRESSES: Written comments or statements must be mailed or hand-delivered to Allen D. Klein, Attn: Charles Albrecht, Office of Surface Mining, Western Technical Center, Second Floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, (telephone: (303) 844-2451), Office of Surface Mining, Western Technical Center, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

SUPPLEMENTARY INFORMATION: Average annual production at the proposed Keeline mine will be 9 million tons per year (MTY), over a 21-year period, with a maximum annual production of 12 MTY. Coal is proposed to be transported via a 6.5 mile rail spur to be constructed from the minesite to the Burlington Northern/Chicago and Northwestern mainline. The proposed permit area would encompass 8,175 acres, of which 4,622 acres would be disturbed durling the life of the mine. The permit area

consists of 640 acres of State land, 120 acres of Federal land and 7,415 acres of private land. The initial method of mining would be by truck and shovel; however, after six years of mining a 3 dragline would be used for stripping operations. Also proposed in a coal handling facility consisting of two primary and two secondary crushers, all feeding directly to the unit train loadout facility or conveying the coal to one of ten storage silos within the permit area. Portions of the Keeline road and Jocabs road are proposed to be reconstructed and permanently rerouted around the mining activities. Construction of the mine and facilities would require a peak workforce of 150 people in 1987. Peak employment for the mining operation would be approximately 365 people in the 1998.

Dated: October 2, 1985.

Brent Wahlquist,

Asssistant Director, Technical Services and Research.

[FR Doc. 85-23978 Filed 10-7-85; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29653 (Sub-No. 3)]

The Baltimore and Ohio Railroad Company, et al.; Pooling of Car Service Regarding Multi-Level Cars

AGENCY: Interstate Commerce Commission.

ACTION: Institution of proceeding.

SUMMARY: The Commission is instituting a proceeding to consider certain amendments proposed by member railroads to the pooling agreement approved by the Commission by decision served August 19, 1981, in Finance Docket No. 29653. That agreement provided for the pooling of multi-level rail car service used to transport motor vehicles. Applicants propose to amend the agreement to also permit the pooling of: (1) Boxcars specially equipped for the transportation of auto parts; (2) car hire on equipment that has been assigned for central distribution under the agreement; and (3) maintenance expenses on cars that have been assigned for central distribution under the agreement. A copy of the application is available for inspection at the Commission's Public Docket File Room 1221 in Washington, D.C. A copy may also be requested from applicants' representative.

DATES: Verified statements supporting or opposing the application must be filed by [30 days from date of publication]. Verified replies must be filed by [50 days after date of publication].

ADDRESSES: Send pleadings referring to Finance Docket No. 29653 (Sub-No. 3) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Applicants' representative: Robert T. Opal, Commerce Counsel, Chicago and North Western Transportation Company, One North Western Center, Chicago, Illinois 60606, (312) 559-6079.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitain area) or toll free (800) 424-5403.

Decided: September 26, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-24028 Filed 10-7-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30730]

Delaware and Hudson Railway Co.; Trackage Rights Over Baltimore and Ohio Railroad Co. and Buffalo, Rochester and Pittsburgh Railway Co. Track; Exemption

The Delaware and Hudson Railway Company (D&H) has entered into an agreement for overhead trackage rights over Baltimore and Ohio Railroad Company (B&O) and Buffalo, Rochester and Pittsburgh Railroad Company (BR&P) track between milepost 49.7 at Silver Lake Junction, NY, and P&L Junction, milepost 19.5 in the vicinity of Mumford, NY, and that portion of the Silver Lake Subdivision between Silver Lake Junction, milepost 0.0 and milepost 1.2, Silver Springs, NY, a distance of approximately 31.4 miles. This trackage rights agreement became effect September 25, 1985.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: October 4, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-24241 Filed 10-7-85; 10:46 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Research Grant Solicitation

The National Institute of Justice is soliciting a proposal for applied research grants in the following area:

Program and Due Date (1986)

*Replicating An Experiment in Specific Deterrence: Alternative Police Responses to Spouse Assault—March 4

Multiple awards are planned in this area. Description of the program and the application process may be obtained from the National Criminal Justice Reference Service. Interested organizations should write to: NCJRS, P.O. Box 6000, Rockville, Maryland 20850, ATTN: Program Solicitations.

Dated: September 27, 1985.

James K. Stewart,

Director.

[FR Doc. 85-23986 Filed 10-7-85; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 320, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Bureau of Labor Statistics

U.S. Export Product Information
1220–0025; BLS 2894B, BLS 2894C, BLS 3008
Quarterly
Businesses and other for-profit; small businesses or organizations
17,220 responses; 7,631 hours; 3 forms

The International Price Program indexes, one of the nation's primary economic indicators, are used as: measures of price movements in International product prices; indicators of inflationary trends in the economy; sources of information used to determine U.S. monetary, fiscal, trade and commercial policies. They are also used to deflate the Gross National Product.

Bureau of Labor Statistics

U.S. Import Product Information
1220–0026; BLS 3007B, BLS 3007C, BLS 3008
Quarterly
Businesses and other for-profit; small businesses or organizations
22,892 responses; 10,485 hours; 3 forms

The International Price Program indexes, one of the nation's primary economic indicators, are used as: measures of price movements in International product prices; indicators of inflationary trends in the economy; sources of information used to determine U.S. monetary, fiscal, trade and commercial policies. They are also used to deflate the Gross National Product.

Extension

Employment and Training Administration

Customer Survey Data Request
1205–0190; ETA 8562
On occasion
Businesses or other-for-profit; Small businesses or organizations
11,523 respondents; 11,523 hours; 1 form

Information needed for Secretary of Labor to make determinations of eligibilty of petitioning workers to apply for worker trade adjustment assistance in accordance with Sections 222, 223, and 249 of the Trade Act of 1984 as amended, affecting manufacturers, wholesalers, retailers and distributors.

Signed at Washington, DC this 3rd day of October 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85–24058 Filed 10–7–85; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-15,768]

Emhart Machinery Group, USM Machinery Division, Beverly, MA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to apply for Worker Adjustment Assistance on April 26, 1985, applicable to all workers at the foundry of United Shoe Machinery Division, Emhart Machinery Group, Beverly, Massachusetts covered under the following petition: TA–W–15,768.

On the basis of additional information, the Office of Trade Adjustment Assistance reviewed the certification. The additional information revealed that substantial layoffs occurred after the May 31, 1985, termination date set in the initial certification, and are still continuing. The post-termination date layoffs were explained by the fact that a number of foundry workers continued employment with the subject firm beyond the May 31, 1985 date set in the certification of TA–W–15,768. These workers were involved in mothballing activities; shipping of molds and patterns to customers; and dismantling equipment. In addition, there was a delayed ripple effect which caused the layoff of some workers indirectly affected by the closing of the foundry. These workers were involved in powerhouse, stockroom, maintenance, and other work connected with foundry operations.

The intent of the certification is to cover all workers at the foundry of United Shoe Machinery Division, Emhart Machinery Group, Beverly, Massachusetts engaged in employment related to the production of aluminum and iron castings who were affected by the company's increase of imports of castings in 1984 compared with 1983, and in the first quarter of 1985 compared with the same quarter in 1984.

The certification is amended by deleting the May 31, 1985 termination date for the Beverly, Massachusetts plant.

The certification applicable to TA–W–15,768 is hereby amended and issued as follows:

All workers engaged in employment related to the production of iron and aluminum castings at Emhart Machinery Group, United Shoe Machinery Division, Beverly, Massachusetts who became totally or partially separated from empoyment on or after September 1, 1984 are eligible to apply for adjustment assistance benefits under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of September 1985.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 85–24057 Filed 10–7–85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,143]

Emhart Machinery Group USM Machinery Division, Beverly, MA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was

initiated on July 15, 1985 in response to a worker petition which was filed by the United Electrical, Radio and Machine Workers of America, Local No. 271 on behalf of workers at the foundry of Emhart Machinery Group, United Shoe Machinery Division, Beverly, Massachusetts.

The petitioning group of workers is covered under certification (TA-W-15,768). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 30th day of September 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-24056 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,165]

New Coat Factory, Inc., Highland Park, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 22, 1985 in response to a worker petition received on July 7, 1985 which was filed by the International Ladies' Garment Workers Union on behalf of workers at the New Coat Factory, Incorporated, Highland Park, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 30th day of September 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-24055 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,240]

Zenith Electronics Corp., Evansville, IN; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was instituted on August 12, 1985 in response to a worker petition which was filed by the International Union of Electrical Workers on behalf of workers at Zenith Electronics Corporation, Evansville, Indiana.

The petitioner requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 30th day of September 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-24054 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 18, 1985.

Interested persons are invested to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 18, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC, 20213.

Signed at Washington, DC this 30th day of September 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Dated of petition	Petition No.	Articles produced
Albany Industrial Maintenance (URW)	Albany, GA	9/27/85	9/27/85	TA-W-16,439	Janitorial maintenance for Firestone, Albany, GA plant.
Columbus Sportwear Co. (ACTWU)	Portland, OR	9/26/85	9/23/85	TA-W-16,440	Hunting jackets.
Dalton Industries Cleveland Div. (ILGWU)	Cleveland, OH	9/27/85	9/23/85	TA-W-16,441	Blouses, sweaters, jackets, pants, skirts.
Dalton Industries (ILGWU)	Willoughby, OH	9/27/85	9/23/85	TA-W-16,442	Blouses, sweaters, jackets, pants, skirts.
Dalton Industries, Lorain Div. (ILGWU)	Lorain, OH	9/27/85	9/23/85	TA-W-16,443	Blouses, sweaters, jackets, pants, skirts.
Dalton Industries Canton Div. (ILGWU)	Canton, OH	9/27/85	9/23/85	TA-W-16,444	Blouses, sweaters, jackets, pants, skirts.
Luary Textiles (ACTWU)	Luray, VA	9/26/85	9/23/85	TA-W-16,445	Finished r&w yarn.
MI LI, Inc. (ILGWU)	Quincy, MA	9/24/85	9/19/85	TA-W-16,446	Ladies, sportwear.
Milliken & Co. (workers)	Manchester, GA	9/27/85	9/25/85	TA-W-16,447	Textile—weaving, knitting yarn.
Ratner California Clothing Corp. (ACTWU)	ChulaVista, CA	9/26/85	9/23/85	TA-W-16,448	Men's sportcoats, suits and slacks.
(The) Roger's Mfg Co. (UAW)	Akron, OH	9/27/85	9/20/85	TA-W-16,449	Pulleys—auto industry.
Sheller-Globe Corp. (URW)	Quincy, ILL	9/27/85	9/19/85	TA-W-16,450	Dashboards, for auto industries, from assemblies, inserts for dashboards & crash pads.
American Seamless Tubing (workers)	Baltimore, MD	9/26/85	9/24/85	TA-W-16,451	Seamless tubing.
Bara, Inc. (ILGWU)	Newark, NJ	9/19/85	6/17/85	TA-W-16,452	Rainwear.
Coors Porcelain Co. (company)	Grand Junction, CO	9/26/85	9/23/85	TA-W-16,453	Technical ceramic components.
Copper Range Co., White Pine Copper Div. (workers)	White Pine, MI	9/26/85	9/23/85	TA-W-16,454	Refined cooper in wire bar, cake, cathode & billets form
Firestone Tire & Rubber Co. (URW)	Albany, GA	9/23/85	9/20/85	TA-W-16,455	Passenger car tires.
Giddings & Lewis Bickford Machine Co. (company)	Kaukauna, WI	9/26/85	9/25/85	TA-W-16,456	Automatic machine cells, cnc machine centers & drill poin grindine machines.
Hallowell Shoe Co. (workers)	Augusta, ME	9/26/85	9/23/85	TA-W-16,457	Women shoes and boots.
(The) Harwood Companies, Inc. Abingdon Plant (workers)	Abingdon, VA	9/26/85	9/24/85	TA-W-16,458	Active wear and underwear.
(The) Harwood Companies, Inc. Marion Plant, Holtson Plant (wtrs).	Marion, VA	9/26/85	9/24/85	TA-W-16,459	Pajamas, robes.
J.M. Martinac Ship Building (workers)	Tacoma, WA	9/25/85	9/13/85	TA-W-16,460	Fishing boats.
Midwest Steel & Iron Works Co. (Ironworkers)	Pueblo, CO	9/23/85	9/17/85	TA-W-16,461	Fabricated structural steel.
Diamond Chain Co. (USWA)	Indianapolis, IN	9/25/85	9/16/85	TA-W-16,462	Roller chain products.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Dated of petition	Petition No.	Articles produced
Gates Learjet, Wichita Div (Co.)	Wichita, KS	9/25/85	8/27/85	TA-W-16,463	Jet Aircraft.
Gates Learjet, Tucson Div. (Co.)	Tucson, AZ	9/25/85	8/27/85	TA-W-16,464	Jet Aircraft.
L.I. Samuel Fashions (ILGWU)	Elizabeth, NJ	7/29/85	7/25/85	TA-W-16,465	Ladies sportwear.
Mutual Mfg (ACTWU)	Lawrence, MA	9/25/85	9/18/85	TA-W-16,466	Men & boys outerwear.
Petrotomics Co. (company)	Shirley Basin, WY	9/23/85	9/19/85	TA-W-16,467	Uranium oxide.
Samson Altman, Inc. (ILGWU)	Waltham, MA	9/24/85	9/19/85	TA-W-16,468	Ladies sportswear.
West Point Pepperell, Inc. Lumberton Plant (company)	Lumberton, NC	9/25/85	9/23/85	TA-W-16,469	Knitting fabrics for apparel market.
West Point Pepperell, Inc., Hamilton Plant (company)	Hamilton, NC	9/25/85	9/23/85	TA-W-16,470	Knitting fabrics for apparel market.
West Point Pepperell, Inc. Fairmont Plant (company)	Fairmont, NC	9/25/85	9/23/85	TA-W-16,471	Cut & sew garments (from knitting fabrics of other plants).
West Point Pepperell, Inc. Clinton Plant (company)	Clinton, NC	9/25/85	9/23/85	TA-W-16,472	Blended yarn.
Westinghouse Electric Corp—Elevator Div. (workers)	Gettysburg, PA	9/19/85	9/16/85	TA-W-16,473	Architectural products for elevator & escalator systems.
ASARCO, Inc (workers)	El Paso, TX	9/25/85	9/18/85	TA-W-16,474	Lead, copper, zinc, silver gold.
Cahnon Mills Co., Plant #8 (workers)	Concord, NC	9/24/85	9/20/85	TA-W-16,475	Tufting, weaving, winding, knitting.
EDGO Lab Design (ACTWU)	Lawrence, MA	9/25/85	9/18/85	TA-W-16,476	Men & boys outerwear.
Fairchild Semiconductor (workers)	Wappingers Falls, NY	9/25/85	9/19/85	TA-W-16,477	Semiconductors—microprocessors.
Foseco (USWA)	Mt. Braddock, PA	9/25/85	9/20/85	TA-W-16,478	Liner boards for tundish.
Hyster Co. (company)	Crawfordsville, IN	9/24/85	9/18/85	TA-W-16,479	Electric narrow aisle trucks, electric order-picking trucks, walkie/walkie rider.
Jackson China, Inc. (GPPAW)	Falls Creek, PA	9/25/85	9/20/85	TA-W-16,480	Hotel and restaurant china.
Jamppa Mfg Co., Inc. (company)	Lowell, MA	9/24/85	9/18/85	TA-W-16,481	Ladies' sportswear.
Mutual Sunset Lamp (company)	Trenton, NJ	9/24/85	9/15/85	TA-W-16,482	Portable metal lamps.
Rome Cable Corp. (IAMAWA)	Rome, NY	9/24/85	9/20/85	TA-W-16,483	Fabricated copper bare wire & insulated electrical copper wire & cable products.
XL Manufacturing, Inc (company)	Gordo, AL	9/24/85	9/20/85	TA-W-16,484	Men's and ladie's parkers, ski jackets & blazers.
Washington Overall Mfg. Co (workers)	Scottsville, KY	9/23/85	9/19/85	TA-W-16,485	Men's & boy's jeans and slacks.
Anchor Hocking Corp Plants #40, #30, #58, #12 (workers)	Lancaster, OH	9/23/85	9/12/85	TA-W-16,486	Glasswear items, ovenware, stemware.
Classic Trim, Inc. (workers)	New York, NY	9/20/85	9/11/85	TA-W-16,487	Trimmings and pleating.
Crosby Group Laughlin Plant (IAM)	Portland, ME	9/19/85	9/12/85	TA-W-16,488	Drop forged fittings for wire rope & chain.
(The) Fabsteel Co (workers)	Waskom, TX	9/20/85	9/17/85	TA-W-16,489	Fabrication of steel components.
Fabsteel of Louisiana (workers)	Shreveport, LA	9/20/85	9/17/85	TA-W-16,490	Fabrication of steel components.
Fabsteel of Texarkana (workers)	Texarkana, TX	9/20/85	9/17/85	TA-W-16,491	Fabrication of steel components.
Hallowell Shoe (workers)	Lewiston, Maine	9/23/85	9/18/85	TA-W-16,492	Boots.
Missouri Steel Castings Co(Inter'l Molders and Allied Workers)	Joplin, MO	9/23/85	9/16/85	TA-W-16,493	Steel castings.
Publix Shirt Corp. (ACTWU)	Myerstown, PA	9/20/85	9/18/85	TA-W-16,494	Men's shirts.
(The) Timken Co. (workers)	Ashland, OH	9/23/85	9/13/85	TA-W-16,495	Tools & equipment needed to produce tapered roller bearing.
(The) Timken Co. (workers)	Bucyrus, OH	9/23/85	9/9/85	TA-W-16,496	Produce & distributes tapered roller bearings.
Tobin-Hamilton Co., Inc. (workers)	Mansfield, MO	9/23/85	9/19/85	TA-W-16,497	Juvenile shoes.
Act III (workers)	Spartanburg, SC	9/26/85	9/13/85	TA-W-16,498	Ladie's sportswear; cutting, sewing, distribution, transportation.
Canton Apparel (company)	Canton, MS	9/27/85	9/25/85	TA-W-16,499	Boy's pants, trousers.
Chevron Chemical Co. (company)	Magna, UT	9/20/85	9/13/85	TA-W-16,500	Phosphate fertilizers.
F. Power Co., Inc. (Leather Plastic & Novelty)	San Francisco, CA	9/23/85	9/16/85	TA-W-16,501	Industrial linen supplies.
Mighty-Mac, Inc. (workers)	Gloucester, MA	9/20/85	9/12/85	TA-W-16,502	Men's and boy's outerwear.
Monessen Southwestern Railway Co. (United Transportation).	Monessen, PA	9/27/85	9/24/85	TA-W-16,503	Transporting steel.
Shawmut Corduroy Plant, West Point Pepperell (wkrs)	Shawmut, AL	9/27/85	9/19/85	TA-W-16,504	Corduroy and chambray, twill fabrics
Virginia Sportswear Inc. (workers)	Lynchburg, VA	9/20/85	9/18/85	TA-W-16,505	Ladie's sportswear.
Weyerhaeuser Co. (IWA)	Klamath Falls, OR	9/26/85	9/16/85	TA-W-16,506	Lumber.

[FR Doc. 85-24051 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-85-107-C]

Commerce Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Commerce Coal Company, Inc., P.O. Box 927, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 1 Mine (I.D. No. 15-14608) located in Letcher 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 the belt haulage entries not be used to ventilate active working places.

2. Petitioner states that a roof fall has resulted in additional roof support systems being installed in the entry, such as crossbars and timbers, and these additional roof supports have increased the resistance to air flow.

3. As an alternate method, petitioner proposes to utilize 130 feet of the belt haulage entry for the purpose of directing return air to the mine surface.

4. In further support of this request, petitioner states that:

(a) The mine is located above the water table, and methane has not been detected in any portion of the underground areas;

(b) The expected life of the mine is two years;

(c) The mine is ventilated by use of the forced air ventilation system;

(d) Explosives are not used; the coal is mined by use of a remote control continuous miner;

(e) The belt haulage entry is wet, and is the primary means of entering and exiting the underground areas and is travelled several times daily by a certified foreman;

(f) A high pressure water line, fire sensors and required firefighting equipment are maintained; and

(g) A belt person is on duty at all times when coal is being mined. The ventilating current is directed along the belt entry to the mine surface, and any smoke or fire should be readily observed by this person.

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 7, 1985. Copies of the petition are available for inspection at that address.

Dated: September 30, 1985

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-24052 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-116-C]

Olga Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Olga Coal Company, P.O. 6778, Cleveland, Ohio 44101 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Road Fork No. 2 Mine (I.D. No. 46-05319) located in McDowell 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 cabs or canopies be installed on the mine's electric face equipment.

2. The Road Fork No. 2 coal mine seam is very erratic, varying in height from 32 to 56 inches, and the floor is undulating.

3. Petitioner states that the use of canopies in low mining heights would result in a diminution of safety for the miners affected because the canopies could dislodge roof bolts and cause the canopies to break, increasing chances of an injury.

4. In addition, due the the low clearance between the canopies and the roof, energized equipment power cables sometimes contact the canopies and either scrape or severely damage the cables.

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 7, 1985. Copies of the petition are available for inspection at that address.

Dated: October 2, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-24053 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[V-85-2]

AMAX Lead Company of Missouri

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of Hearing on Application for Permanent Variance.

SUMMARY: This notice announces a hearing on the application of AMAX Lead Company of Missouri for a permanent variance from Table II of the standard prescribed in 29 CFR 1910.1025 (f)(2), concerning the limitation on use of half-mask, air-purifying respirators equipped with high efficiency filters to areas where the lead concentration in air is less than 10 times the permissible exposure limit (PEL), 500 micrograms per cubic meter of air. This notice also summarizes the record to date and sets forth the issues for the hearing.

DATES: Interested persons wishing to participate in the hearing may file a request for party status no later than November 7, 1985. The hearing will begin at 9:30 a.m. on December 4, 1985, at Courtroom No. 2, Room 502, U.S. Court of Appeals, U.S. Courthouse and Custom House, 1114 Market Street, St. Louis, Missouri 63101.

ADDRESSES: Requests to participate in the hearing must be filed in duplicate with both:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street & Constitution Avenue, NW., Room N-3656, Washington, DC 20210

and

Nahum Litt, Chief Administration Law Judge, U.S. Department of Labor, Vanguard Building, Suite 700, 1111 20th Street NW., Washington, DC 20036

The location of the hearing will be in the Federal Building, Courtroom No. 2, Room 502, U.S. Court of Appeals, U.S. Courthouse and Custom House, 1114 Market Street, St. Louis, Missouri 63101. Written comments received and hearing participation requests will be available for inspection and copying in the Office of Variance Determination, Room N-3656 at the above Constitution Avenue address.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street & Constitution Avenue, NW., Room N-3656, Washington, DC 20210, Telephone: (202) 523-7193.

SUPPLEMENTARY INFORMATION: The notice announcing the application for a permanent variance from Table II of the standard prescribed in 29 CFR 1910.1025(f)(2) of AMAX Lead Company of Missouri, Boss, Missouri 65440, was published in the **Federal Register** on April 16, 1985 (50 FR 15004). The applicant by letter, dated May 16, 1985, requested that a hearing be held to resolve the issues raised by the application. For the reader's convenience, OSHA is here republishing the substance of the application.

Notice of Application

AMAX Lead Company of Missouri, Boss, Missouri 65440, has applied under section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from Table II of the standard prescribed in 29 CFR 1910.1025 (f)(2), respirator selection.

The address of the place of employment that will be affected by the application is as follows: AMAX Lead Company of Missouri, Boss, Missouri 65440.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that, under the practices and conditions it proposes to use, if granted a variance from 29 CFR 1910.1025(f)(2), it will provide a place of employment as safe and healthful as that required by the lead standard (29 CFR 1910.1025). 29 CFR 1910.1025(f)(2) states that where respirators are required, a half-mask, air-purifying respirator equipped with high efficiency filters (hereinafter referred to as half-mask, air-purifying respirator) shall be used only when the airborne concentration of lead is not in excess of 500 micrograms per cubic

meter of air ($\mu g/m^3$), 10 times the permissible exposure limit (PEL).

AMAX Lead Company states that it operates a lead mine-mill-smelter complex in southeast Missouri with a smelter design capacity of 140,000 tons annually. This capacity, according to AMAX, represents approximately 18 percent of the total United States refined lead capacity. In 1983 the smelter produced 142,956 tons of refined lead.

The applicant further states that under the provisions of the lead standard it currently is required to implement engineering controls, work practice and administrative controls, to the extent feasible, to reduce and maintain employee exposure to airborne lead to or below the interim PEL of 100 $\mu g/m^3$, averaged over an 8-hour period. This interim PEL is to be further reduced to 50 $\mu g/m^3$ by June 29, 1991, which is to be achieved through the use of engineering and work practice controls, except to the extent the Company can demonstrate that such controls are not feasible.

During the time period necessary to install the above-referenced controls, or in work situations where such controls are not sufficient to reduce exposures to or below the PEL, the lead standard authorizes and requires the use of appropriate respiratory protection to reduce employee exposure levels to or below 50 $\mu g/m^3$.

When respirators are utilized, Table II of the standard (section 1910.1025(f)(2)) specifies the type of respiratory protection to be used which depends on the airborne concentration of lead and conditions of use. Table II assigns a protection factor of 10 to half-mask, air-purifying respirators, thereby establishing a maximum airborne lead concentration of 500 $\mu g/m^3$ on the use of such a respirator. The applicant is seeking a permanent variance from what it characterizes as "this restrictive protection factor." The applicant seeks authorization to utilize half-masks, air-purifying respirators at air lead concentrations up to 5000 $\mu g/m^3$ (100 times the PEL).

The applicant states that airborne lead levels within the smelter may exceed 500 $\mu g/m^3$ (10 times the PEL) for some operations. During upset conditions or maintenance operations, airborne lead levels, it contends, may often exceed 500 $\mu g/m^3$. Consequently, the applicant alleges, "compliance with Table II in these situations is infeasible due to the variability in duration of exposure and the inability to determine the need for greater protection measures until industrial hygiene sampling has been conducted and laboratory results returned." In light of these factors, AMAX Lead seeks to utilize a protection factor of 100 (equivalent to 5000 $\mu g/m^3$) for half-mask, air-purifying respirators.

The applicant states that it has developed an extensive respirator protection program at the smelter which provides, in part, quantitative face-fit testing and employee training in respirator usage. Based on this program and available evidence, including blood lead data, it claims to have determined that a protection factor of 100 can be assigned to the half-mask, air-purifying respirator.

Quantitative face-fit test results performed by the applicant on its employees, from July 1, 1982 to June 30, 1983, it contends, yielded fit factors with a geometric mean of 4099. During this time period, no employee had a fit factor less than 120. Distribution of these face-fit test results is as follows:

FREQUENCY DISTRIBUTION OF FIT FACTORS

(July 1, 1982–June 30, 1983)

Range	Frequency	Cumulative frequency	Percent	Cumulative percent
<200	3	3	0.49	0.49
200–999	29	32	4.78	5.27
1,000–4,999	398	430	65.57	70.84
>5,000	177	607	29.16	100.00

The applicant further alleges that the American National Standards Institute (ANSI) has also concluded that a protection factor higher than 10 can be assigned to a negative pressure respirator. Specifically, the applicant states ANSI has indicated that a protection factor of 100 can be assigned if the employee has been quantitatively fit tested (ANSIZ88.2–1980). Moreover, the applicant alleges that "unpublished data from the National Institute for Occupational Safety and Health's work at the St. Joe Minerals Corporation Herculaneum smelter indicates that a half-mask negative pressure respirator with high efficiency filters will provide a minimum protection factor of 100 [to an employee] . . .'working' in a smelter environment." Therefore, AMAX Lead is confident that with strict enforcement of its respirator protection program a protection factor of 100 can be assigned to a negative-pressure, half-mask respirator for use in its smelter.

If this application is granted, AMAX says that when respirators are required it will provide half-mask, air-purifying respirators with high-efficiency filters to employees who work in operations having airborne concentrations of lead not exceeding 5000 $\mu g/m^3$ only if such employees first demonstrate a quantitative face-fit test (QNFT) factor of 250 or greater. QNFTs will be performed at the time of initial fitting and at least semiannually for all exposed employees. The applicant further declares that for any such employee who has a confirmed rise of 10 $\mu g/100g$ of whole blood or greater in his/her blood lead level from the previous sampling test results, the employer will perform another quantitative face-fit test to ensure that the protection factor is 250 or greater. In addition, the applicant will evaluate the employee's respirator usage, hygiene habits and lead-related work practices. Based on the quantitative face-fit test results and the evaluation, AMAX Lead will take all reasonable and appropriate corrective steps to protect the health of the employee including, if necessary, requiring the employee to wear a powered air-purifying respirator (PAPR) in lieu of a half-mask, air-purifying respirator.

According to the applicant, it will also continue to enforce and, if warranted, revise its written respirator program. That program, the applicant states, provides that the employer clean employees' respirators at the end of each shift, and after the respirators have been air-dried return each employee's respirator to the individual employee's storage bin.

AMAX Lead will also provide PAPRs in lieu of half-mask air-purifying respirators whenever an employee requests the use of such respirators, as presently required by the lead standard, and whenever its use is necessary to protect the health of an employee.

The applicant alleges further that it will select respirators from those approved for protection against lead dust, fume and mist by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

In summary, the applicant contends that it has demonstrated by a preponderance of the evidence, including blood lead and air lead data it submitted subsequent to its application, that the practices and conditions it proposes to use will provide a place of employment which is as safe and healthful as that provided by compliance with § 1910.1025(f)(2), Table II, the provision from which the variance is sought.

Comments on Application

The agency received thirteen comments on the AMAX application. Of the thirteen, one supported granting the application as written. This comment was from another lead company and was submitted without an accompanying substantive basis. Seven

others opposed any changes in the relevant protection factor at this time, while four indicated that some increase in the protection factor might be justified under certain conditions. The final comment, from a respirator manufacturer, stated that it currently produces a series of power air-purifying combination cartridge respirator systems (PAPRs), one of which has been approved by NIOSH for smelter-type conditions described by the applicant. This respirator is designed to remove particulate material and gases from the working environment and to provide the worker with cleansed breathable air presented at his/her orinasal area. Under the lead standard, PAPRs are authorized for use at exposure levels up to 50,000 $\mu g/m^3$ of lead in air, or 1000 times the PEL.

Of the four comments supporting some increase in the protection factor for half-mask, air-purifying respirators, one from the United Steelworkers of America (USWA) was specifically based upon the unique conditions at the AMAX primary smelter. The USWA supports the variance application in part and under specified conditions. The USWA stated that while Table II of 29 CFR 1910(f)(2) prohibits the use of half-mask, negative-pressure, air-purifying respirators in areas where exposure to lead exceeds ten times the PEL, the USWA believes that its members in jobs with exposure up to 50 times the PEL should have the right to select such respirators.

The USWA stated that self-contained breathing apparatus (SCBAs) and supplied-air respirators cannot feasibly be used for routine tasks in primary smelters and that PAPRs cannot be used in areas of primary smelters where employees are exposed to sulfur dioxide (SO_2) gas. The selection of respiratory protection for such areas, therefore, is limited to half-mask and full-face, air-purifying respirators.

The USWA does not base its support for the variance on any claim that under real workplace conditions in a primary lead smelter half-mask, air-purifying respirators are more protective than previously thought. Rather, USWA support is based on its belief that in actual use full-face respirators are no more protective, and may be less protective, than half-mask respirators. In any event, the USWA states, neither can replace engineering controls. Indeed, the dilemma of selecting between different types of respirators, all of which have disadvantages, adds additional weight, in the view of the USWA, to the principle that engineering controls are always to be preferred where they are feasible.

Accordingly, USWA would support a variance allowing workers in primary lead smelters to select half-mask, air-purifying respirators in areas up to 50 times the PEL, but only under the following conditions:

1. For each affected job title, the company must demonstrate that air line respirators, SCBAs, and PAPRs are infeasible, impractical, or no more protective than negative pressure respirators.

2. Since the acceptability of the respirator to its user should be a factor in respirator selection, if workers find a particular respirator so uncomfortable that they cannot or will not use it properly, that respirator should not be required where a reasonable alternative is available. For example, in hot areas and on cold days, a PAPR continuously blows air on the wearer's face, which may be unacceptable. In addition, only one PAPR is currently certified for areas above the PEL for SO_2, and according to the USWA, that PAPR has not been adequately tested under real workplace conditions.

3. Allowable half-mask respirators should be limited to nondisposable types, with HEPA filters and elastomeric face pieces.

4. Workers should have the right to select a half-mask in areas above 10 times the PEL. They should also have the right to select a full-face respirator, a PAPR, or a supplied-air respirator in areas where such respirators are feasible and permitted by the standard. In addition, a worker should be allowed to select more than one type of respirator for his or her use during the course of the workday. For example, a worker might wish to use a PAPR in some areas of the plant, switching to a half-mask in areas with exposure to SO_2; or a worker might select a full-face respirator for areas that are very hot but have little steam, switching to a half-mask in other areas.

5. All respirators and their filters should be individually assigned, including PAPRs. Respirators should be collected by the company at the end of each shift, cleaned, disinfected, inspected, bagged, and returned to the original users before their next shift begins.

6. AMAX should supply clean-air stations, break rooms, and other areas where exposures to lead and SO_2 are below the PEL, so respirator users frequently can take off their masks.

7. AMAX should perform quarterly quantitative fit tests (QNFTs) for all respirator users covered by the variance. The fit testing should include PAPRs as well as negative-pressure respirators. In accordance with AMAX's application, the minmum fit factor for allowing an employee to wear a half-mask, negative pressure respirator at exposures exceeding 10 times the PEL should be 250.

8. AMAX should agree to undertake a study of the effectiveness of different types of respirators under real workplace conditions. In particular, the study should evaluate the Racal Breathe Easy with combination HEPA/acid gas cartridges. it should also compare full-face and half-mask, negative-pressure respirators, and other types of PAPRs.

9.Since few areas in the AMAX plant exceed 50 times the PEL, the variance should not apply to exposures above that level.

10. Since engineering controls are the only effective long-term solution, AMAX should submit an explicit engineering control program for rapidly bring exposures in the plant below the 10 times the PEL level, and ultimately bringing them below the PEL itself.

Another commentator, Mr. Darrel D. Douglas, a recognized expert in the field of respiratory protection, stated that the use of a half-mask, air-purifying respirator at exposure levels up to a protection factor of 100 is viable where a minimum fit factor of 250 is attained in quantiative fit tests. The commentator would not, however, grant the variance until additional conditional conditions were met. These conditions are:

1. The variance should be closely allied with an engineering control plan, to reduce the exposure to airborne lead concentrations as far as possible;

2. Correct, detailed QNFT procedure should be utilized;

3. Blood lead analyses should be conducted at intervals no longer than four weeks; and

4. Air lead testing should be done frequently in the work area. The entire work area where lead exposure is significant should be sampled at regular intervals.

Mr. Edwin C. Hyatt, also a recognized expert in respiratory protection, supported some increase in the protection factor, stating that the maximum protection factor that should be considered for such a half-mask respirator in the workplace is 50. However, before an employee is allowed to wear the respirator at such exposure levels the employee, according to this commentator, should have achieved a QNFT result no lower than 500 on each of 3 tests on the respirator found to be the best fitting and most comfortable.

To assure employee protection, the commentator would also require adequate provision for technical review of the AMAX respirator program at regular intervals by an outside agency such as OSHA.

The final commentator amenable to some increase in the protection factor, also a respirator expert, Mr. Earle P. Shoub, summed up his opinions as follows:

"First, when a rigorous respirator program, continuous monitoring of the atmosphere, and constant supervision of respirator wearers are assured, the Protection Factor of 10 probably is too restrictive;"

Nevertheless, the commentator concluded, that in view of the paucity of workplace protection factor data, especially with regard to the specific personnel involved, a ten-fold increase in the protection factor could be excessive at this time. Mr. Shoub supported a smaller increase in the assumed protection factor, subject to review, and for a limited time, during which actual workplace protection factors for each person would be determined while, for comparison, fit factors for the same persons would also be determined in the laboratory.

Mr. Shoub concluded by stating that while the choice of this limited-time protection factor is a matter of personal judgement, the rapidity with which a too lenient protection factor could be detected and the possibility of harm to the wearers should be taken into account.

Various reasons were given by the seven commentators who opposed any change in the protection factors currently accepted by OSHA for half-mask, air-purifying respirators. Among the seven, the only other union to comment on the application, the International Brotherhood of Painters and Allied Trades (IBPAT), opposed basing workplace protection factors for half-mask respirators on quantitative fit test results. It further asserted that AMAX had failed to supply evidence to allow OSHA to properly determine whether the variance could be granted without reducing worker protection. AMAX, it said, should have submitted bioassay data demonstrating no significant difference in blood lead levels among half-mask, PAPR and full facepiece respirator users exposed to the same ambient air lead levels. The union also claimed AMAX had not provided adequate documentation to demonstrate the infeasibility of engineering controls or more protective respirators, or a time table for reducing the air lead exposure levels to eliminate the need for the variance. Generally, IBPAT noted the lack of any relevant new information, and asserted that granting this variance request would be tantamount to modifying OSHA's respirator selection tables without benefit of a rulemaking or hearing.

NIOSH also disapproved granting the variance. The Director of the Division of Safety Research, Mr. John B. Moran, representing NIOSH, expressed "grave concerns" over AMAX's request to use half-mask respirators for protection in lead atmospheres up to 100 times the OSHA PEL, as well as concern over the applicant's supporting documentation, in particular the applicant's assertions about the NIOSH field study of St. Joe's primary lead smelter, a report of which was subsequently published.

NIOSH does not recommend that fit test results be used to justify raising the maximum exposure levels at which half-mask, air-purifying respirators may be worn. Studies, NIOSH says, indicate there may be significant variability, ranging over two orders of magnitude, in fit test sampling results. For one half-mask respirator, for example, NIOSH refers to another study in which measured fit factors ranged from 86 to 2082 (Meyers, W. and Allendor, J., "Sampling Bias Associated with In-Facepiece Sampling on Half-Mask Respirators," presentation at the ISRP/NIOSH Critical Issues Meeting on January 8, 1985.)

In addition, use by AMAX Lead of then unpublished NIOSH data to support assigning a protection factor of 100 to half-mask, air-purifying respirators with high efficiency filters was incorrect, the commentator stated. Indeed, the commentator adds, the authors of the since published report concluded that, "to the extent that the environmental conditions of this study site are representative of conditions that would be found in other workplace settings where those respirator types are used, an assigned protection factor of 10 is appropriate for the half-mask negative pressure air-purifying respirator evaluated in this study" (Lenhart, S. W. and Campbell, D. L. (1984) "Assigned Protection Factors for Two Respirator Types Based Upon Workplace Performance Testing." Ann. Occup. Hyg. *28*: 173–182 (1984)).

Even though the protocol used in the St. Joe study required that test subjects, in order to participate, attain a quantitative fit factor of 250 while wearing a negative-pressure, air-purifying respirator, the authors of the study nonetheless concluded that an assigned protection factor of 10 remained appropriate. Thus, the NIOSH commentator stated, the ANSI recommendation referred to by AMAX to allow the use of half-mask, air-purifying respirators at higher concentrations based on quantitative fit factors is not supported by this study.

Moreover, the Chairman and Vice Chairman of the American National Standards Institute (ANSI) Z88 Committee for Respiratory Protection, Messers Robert A. daRoza and James S. Johnson, respectively, commenting on the AMAX application, stated in a separate comment that AMAX had inappropriately used the ANSI Z88.2–1980 Standard when it asserted that the ANSI Standard, "indicated that a protection factor of 100 can be assigned to a half-mask respirator if the employee has been quantitatively fitted." The ANSI commentators pointed out that AMAX had not committed itself to adherence to the protocol required by the ANSI Standard for quantitative fit tests (QNFTs). But, even if the fit testing had been done in accordance with the ANSI protocol, the commentators continued, new published information developed by researchers at NIOSH and du Pont should have been considered before seeking to assign half-mask, air-purifying respirators a higher protection factor.

Specifically, the ANSI commentators pointed out that while the ANSI Standard states that a single test shall be carried out on each available make and model of a respirator in order to select the appropriate respirator, AMAX simply tries the MSA Comfo II on all employees, and if it fits and seals well—"whatever that means"—no other brand is tried. Thus, according to the commentators, the ANSI Standard encourages use of the best fitting respirator whereas AMAX encourages use of the Comfo II. They also point out that the ANSI Standard requires three *additional* quantitative fit tests on the chosen respirator, after which the protection factor is determined in a conservative manner with the lowest fit factor of the three tests assigned to the specific make and model of respirator for the particular person. Citing the article by da Roza, *et al.*, the ANSI commentators state that the ANSI Z88.2–1980 Standard's "Worst-of-Three Method", nonetheless, underestimates the risk of the user. AMAX, according to the commentators, does not mention these matters.

For these reasons, the ANSI commentators conclude that the ANSI Standard should not be considered as supporting AMAX's application.

Another commentator, Mr. Jerrold L. Caplin, who states that he was involved in the development of the Nuclear Regulatory Commission (NRC)

regulation concerning respiratory protection, writes that the variance request should be denied. Among other reasons, he asserts that AMAX has not demonstrated that the use of half-mask, negative pressure, air-purifying respirators would provide under actual conditions the degree of protection claimed. He further takes exception to AMAX's statement that a protection factor of 10 for this type of respirator is restrictive, citing the stringent requirements imposed on the use of these respirators by the NRC.

This commentator also states that the drafters of the ANSI Z88.2–1980 Standard anticipated that agencies like NIOSH and MSHA would test and certify half-mask, air-purifying respirators for use at higher protection factors, and that manufacturers would produce respirators to meet such certification standards before they would be used at higher exposure levels. Some experts, according to the commentator, objected to the promulgation of the 100 number for the half-masks as perhaps unjustified without the certification which, to date, has not been forthcoming.

Mr. Caplin further states that the "unpublished" data referred to by AMAX provides nothing to justify the assignment of a protection factor of 100. In fact, the document published in 1984 by NIOSH researchers concerning data on the performance of respirators in a workplace, concluded that a value of 10 for the half-mask, air-purifying respirator was appropriate under the study conditions.

The applicant's quantitative fit tests, according to this same commenter, are laboratory and not workplace tests. The details of the application reveal further AMAX is not conducting standard QNFTs in that the fitting is done with the straps of the respirator placed over the outside of a hard hat, which Mr. Caplin considers "an astonishingly bad practice." The reason given by AMAX for so fitting the respirators is that employees wear the respirators that way within the plant. Under these test conditions, the commentator says, he has no confidence that a respirator would maintain its protective integrity for long under under the stresses of actual working conditions.

Mr. James S. Johnson, writing in another capacity as a group leader at the Lawrence Livermore National Laboratory, and Mr. Bruce J. Held, also a group leader at LLNL as well as Secretarist of the ANSI Z88 Committee and also recognized expert in the field of respiratory protection, responded jointly that insufficient information is available on actual workplace respirator protection factors to merit a permanent variance raising the protection factor for a negative-pressure, half-mask respirator from 10 to 100. They state, further, that AMAX has based its request primarily on quantitative test booth data, which is recognized to be a poor simulation of the actual workplace. To account for this shortcoming, these commentators say, conservative protection factors have been assigned to the various types of respirators presently in use in U.S industries. Changes in these established protetion factors, they warn, must be examined carefully and demonstrated analytically in the workplace before it is appropriate to consider a permanent change.

These commentators further assert that since AMAX does not indicate if the protection factor data represents the lowest of three tests (as stipulated in the ANSI Z88.2–1980 Standard), or the method it used to calculate the fit factors, the value of its data cannot be evaluated. They add, citing the article published in the AIHA Journal by da Roza, *et al.*, referred to above that there is significant variation in the test booth protection factors determined by the multiple (3) fit method prescribed by ANSI Z88.2–1980.

The commenator also refer to the work of Lenhart and Campbell, which, they say, has shown on a small number of lead smelter workers (25) that observed workplace protection factors for half-mask, negative-pressure respirators range from 10 (± 2) to 2200 (± 460). This data, according to these experts, clearly illustrates the broad variability in the protection these respirators can offer a worker in an actual workplace setting. Until more data becomes available on the actual workplace protection factors of half-mask, negative-pressure respirators, they conclude that the established protection factor of 10 should be adhered to.

Another recognized expert in the field of respiratory protection, Mr. Harry J. Ettinger, also opposed granting the permanent variance. He states that, while the existing standard ANSI Z88.2.1980 does describe protection factors as high as 100, it is unrealistic to expect these to be attained on a continuing long term basis. Recent publications in the literature have pointed out that protection factors attained in the laboratory may not be attained in the workplace where physical exertion, long term respirator use, and factors such as temperture and humidity may affect respirator use. The variance request incorrectly states that NIOSH data obtained at St. Joe Minerals Crop. indicates "a minimum protection factor of 100" is appropriate, as can be seen in the publication of Lenhart and Campbell, which states that "a value of 10 was concluded to be generally acceptable." Noting that the applicant proposed to use a quantitative face fit test factor of 250 or greater as a basis for assigning a so-called field protection factor of at least 100, this commentator asserts that using laboratory test results of 250 as a basis for assuming a field protection factor of 100 is unwarranted. Mr. Ettinger further asserts that, while the AMAX "Guide to Respiratory Protection" (Appendix I to the variance request) generally follows the ANSI–Z88.2–1980 guidiance, there are several deficiences. The most important of these include:

(a) No provisions for an external technical reveiw of the program at regular intervals.

(b) No description of recordkeeping regarding fit, use, training, etc.

(c) No description of air sampling practices and how this will be integrated into respirator use.

(d) No descripiton of the qualification and training of personnel responsible for managing and operating the respirator program.

(e) No detail regarding the past history of the existing AMAX respirator program.

(f) No detail regarding medical criteria for screening potential users.

(g) If a protection factor of 100 is to be attained, the adequacy of the positive/negative pressure field fit test is questionable. Use of irritant smoke would seem more approprate. Switching to chemical cartridges to permit isoamyl acetate testing would not be desirable.

(h) Lack of detail regarding the specific application in question.

In summation, this commentor states that he does not believe that the approach outlined in the variance is appropriate to assure, at a high level of confidence, long term protection of the workers. Further, he says he does not see any potential for the development of "invaluable data" to OSHA, as claimed by AMAX.

Mr. Darell A. Bevis, another expert in the area of respiratory protection, also strongly urges rejection of AMAX's requested variance. This commentor states that the effect of the request would result in a wholesale compromise of the health of the AMAX respirator user. The described AMAX respirator program contains major flaws that would very likely result in overexposure to lead for those workers using the respirators, according to the commentator. The three major problem areas he discussed are, as follows:

(1) Based on the written program submitted by AMAX, the company is, beyond a doubt, 5 to 7 years behind in their understanding of respiratory protection. The best example of this contention is found in the selection materials labeled Figure 35 and Guide for Selection of Respirators. Both of those guides were published and used in the late 1950s and early 1960s. In the mid to late 1970s, respirator research studies had shown those selection attitudes to be inadequate. Major revisions of both selection guides were made and published as early as 1978. Many of the selection recommendations in the guides submitted by AMAX have been proven dangerous.

(2) AMAX states that it has a good state-of-the-art respirator program. Yet in the "Respirator Guide" submitted with their written program, they list only one half-mask respirator part number. That number represents an MSA, Comfo II, medium size. Researchers proved twenty years ago that it is impossible to adequately fit a work population with one manufactuers's product.

(3) Finally, AMAX proposes to quantitatively fit test respirator wearers and to accept a minimum quantitative fit factor of 250 for allowing the half-mask respirators to be used in the workplace at exposure levels of up to 100 times the PEL. AMAX refers to the ANSI Z88.2 standard, Table 5, for support. However, when the writing of the 1980 Standard was completed in 1979, the subcommittee, on which this commentator served, did not have the conflicting research studies available today. NIOSH, du Pont, and the American Iron and Steel Institute have all done field studies comparing QNFT results with actual workplace protection factors. All of these studies show little or not correlation between QNFT fit factors and workplace protection factors. The studies do verify, however, that QNFT fit factor of 2,500 must be achieved to assure a workplace protection of 10 or greater. Thus, the proposal to allow half-mask facepieces for use up to 100 times the PEL for lead will most certainly result in overexposure to AMAX respirator users.

Main Issues

In accordance with the requirements of 29 CFR 1905.20, OSHA hereby defines the main issues raised for the hearing by the application and the comments as follows:

1. What are the working conditions and safety and health programs at AMAX that may make its proposed use of half-mask, air purifying respirators at exposure up to 100 times the PEL as safe and healthful for AMAX employees as compliance with the respirator selection table of the lead standard?

2. Does a half-mask, air purifying, negative pressure respirator, equipped with high efficiency filters and used in conjunction with the protection program at the AMAX smelter, provide at least as much protection to AMAX employees at air lead levels up to 5000 $\mu g/m^3$ (100 times the PEL) as the respirators and respirator program required by the lead standard?

3. Are blood lead levels sufficiently reliable indicators of the health of lead-exposed employees so that the achievement by AMAX of mean blood lead levels comparable to those anticipated as a health target for the lead standard would:

(a) Indicate that AMAX's workplace is as safe and healthful as would be achieved if AMAX had complied with all the provisions of the lead standard; and

(b) Therefore justify authorizing the use of current respirator practices that may vary from the requirements of the lead standard (e.g., the use of half-mask, negative-pressure respirators at exposure levels higher than 10 times the PEL)?

4. Where conditions specified in the comments by the USWA are met, does a half-mask, air-purifying, negative pressure respirator provide at least as much protection to employees in the AMEX primary lead smelter at air lead levels up to 2500 $\mu g/m^3$ (50 times the PEL) as the respirators and respirator program required by the lead standard?

5. Is the correlation between quantitative fit factors and workplace protection factors sufficiently established to justify the use of fit test results as a basis for allowing the use of half-mask, air-purifying, negative pressure respirators at air lead concentrations higher that those authorized by the lead standard? If not, why not? If so, why, and what quantitative fit factor should be required to justify raising the protection factor for these respirators to 25, 50 or 100 times the PEL?

6. If the protection factor for half-mask, negative-pressure respirator were raised what, if any, additional requirements regarding the respirator program, air lead monitoring, supervision of respirator wearers or other relevant factors should be imposed?

7. Under what, if any, conditions in a primary smelter does a PAPR or a full facepiece, nagative /pressure respirator provide less protection or pose a greater safety or health risk to the wearer than a half-mask, negative-pressure respirator? For example:

Can and should PAPRs be used in areas of a primary smelter where there is extreme heat or on very cold days?

Is there a PAPR that can be used with a high degree of confidence in areas of a primary smelter with exposures to SO_2? If so, which one, and what is the evidence to justify that high confidence?

Notice of Hearing

Based upon the evidence in the record to date, OSHA does not believe that AMAX Lead Company has demonstrated by a preponderance of the evidence that, if the company were allowed to use half-mask, negative-pressure respirators at exposure levels up to 100 times the PEL, AMAX would provide a place of employment as safe and healthful as that required by the lead standard (29 CFR 1910.1025).

By Letter, dated May 16, 1985, AMAX Lead Company of Missouri requested a hearing on the variance application. Upon receiving the request OSHA arranged and carried out a variance inspection of the Boss, Missouri facilities and is publishing this notice of hearing.

All interested persons, including employees, who believe thay would be affected by the grant or denial of the application fo a variance may file a request for party status no later than November 7, 1985 to present views and evidence at the hearing. Such request shall contain a statement of the position to be taken and a concise summary of the evidence to be adduced in support of that position.

Requests to participate in the hearing must be filed with both:

James J. Concannon, Director, Office of Variance Determination, Occupational Sasfety and Health Administration, U.S. Department of Labor, Third Street & Constitution Avenue, NW., Room N-3656, Washington, D.C. 20210

and

Nahum Litt, Chief Administrative Law Judge, U.S. Depatment of Labor, Vanguard Building, Suite 700, 1111 20th Street, NW., Washington, DC 20036

These submissions will be available for inspection and copying the Office of Variance Determination, Room N-3656 at the above Constitution Avenue address.

The Applicant, the authorized employee representatives, the United Steelworkers of America (USWA), and OSHA, represented by the Office of the Solicitor, and hereby granted party status and need not submit additional requests to participate in the hearing.

The grant of party status to additional interested persons will be made, if at all, by the to-be-appointed administrative law judge under the terms of 29 CFR 18.10. Those interested persons who commented on the Notice published on April 16, 1985 will be advised in writing of the scheduled hearing and invited to request party status, should they desire to do so.

The hearing will be convened on Wednesday December 4, 1985 at 9:30 a.m., in the courtroom of the Federal Building, at Courtroom No. 2, Room 502, U.S. Court of Appeals, U.S. Courthouse and Customs House, 1114 Market Street, St. Louis, Missouri 63101, at which time the applicant, the USWA, OSHA and any person who has been granted party status in accordance with the above requirements, may submit written or oral data, views or argument and call witnesses. Conduct of the hearing is subject to the regulations on hearings contained in 29 CFR 1905.20 *et seq.* and in 29 CFR Part 18, to the pertinent provisions of the Occupational Safety and Health Act, the Administrative Procedure Act, the Federal Rules of Civil Procedure and to the rulings of the administrative law judge.

Under section 6(d) of the OSHAct, the applicant is required to demonstrate "by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be . . . will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard."

I hereby designate as hearing examiner to conduct this hearing an administrative law judge to be appointed by the Chief Administrative Law Judge of the United States Department of Labor.

Notice is hereby given pursuant to section 6(d) of the Occupational Safety and Health Act of 1970, Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR 1905.20, that a hearing will be held on the application of AMAX Lead Company of Missouri, Boss Missouri 65440 for a permanent variance from the part of 29 CFR 1910. 1025(f)(2), Table II, concerning the limitation on us of half-mask, air-purifying respirators equipped with high efficiency filters to areas where the lead concentration in air is less than 10 times the PEL.

Signed at Washington, D.C. this third day of October 1984.

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 85–24066 Filed 10–7–85; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 85–156; Exemption Application No. D–4337 et al.]

Grant of Individual Exemptions; Richard Dempsey Contracting Co. et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Richard Dempsey Contracting Company, Inc. Profit Sharing Plan and Trust (the Plan) Located in Minneapolis, Minnesota

[Prohibited Transaction Exemption 85–156; Exemption Application No. D–4337]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The July, 1982 contribution of a contract for deed to the Plan by the Richard Dempsey Contracting Company, Inc. (the Employer); and (2) future sales or contributions to the Plan of contracts for deed by the Employer, provided the contracts for deed would be purchased for no greater than their fair market value if on a sale, and would be valued for contribution purposes at no greater than their fair market value if contributed.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 19, 1985 at 50 FR 33423.

Effective Date: This exemption is effective July 1, 1982.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The James C. Soper, Inc. Portion of the Philip M. Jelley, Inc. Pension Plan (the Plan) Located in Oakland, California

[Prohibited Transaction Exemption 85–157; Exemption Application No. D–5557]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the past cash sale of certain securities to the Plan by Mr. James C. Soper, at the prices described in the notice of proposed exemption, provided such prices were not greater than the fair market value of the securities on the dates of the sales.

For a more complete statement of the facts and repesentations supporting the Department's decision to grant this exemption refer the notice of proposed exemption published on August 9, 1985 at 50 FR 32328.

Effective Date: This exemption is effective January 24, 1983.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, Telephone (202) 523–8881. (This is not a toll-free number.)

Lesman Instrument Company Profit Sharing Plan (the Plan) Located in Berkeley, IL

[Prohibited Transaction Exemption 85–158; Exemption Application No. D–5720]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed lease (the New Lease) of a parcel of improved real property by the Plan to the Lesman Instrument Company, the employer and sponsor of the Plan provided that the terms of the New Lease are at least as favorable to the Plan as those obtainable by the Plan in a arm's-length transaction with an unrelated party.

Effective Date: The effective date of this exemption is May 1, 1985.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523–8672. (This is not a toll-free number.)

Wick Homes, Inc. Profit Sharing Plan (the Plan) Located in Bellevue, Washington

[Prohibited Transaction Exemption 85–159; Exemption Application No. D–5834]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a parcel of real property by the Plan to Wick Homes, Inc. for $25,000 provided that the terms and conditions of sale were at least as favorable to the Plan as an arm's-length transaction with an unrelated person.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 19, 1985 at 50 FR 29495.

Effective Date: This exemption is effective July 21, 1983.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number).

Northwest Pump and Equipment Company Profit Sharing Plan and Employees' Trust (the Plan) Located in Portland, Oregon

[Prohibited Transaction Exemption 85–160; Exemption Application No. D–5953]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a lease, effective July 1, 1984, of certain improved real property by the Plan to Northwest Pump and Equipment Company, the sponsor of the Plan, provided that such lease is on terms and conditions at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 26, 1985 at 50 FR 30540.

Effective Date: This exemption is effective July 1, 1984.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Kellam & Klein, D.O., P.C., David Kellam, D.O., Defined Benefit Plan & Trust and Kellam & Klein, D.O., P.C., Donald Klein, D.O., Defined Benefit Plan & Trust (collectively the Plans) Located in Metamora Township, Lapeer County, Michigan

[Prohibited Transaction Exemption 85–161; Exemption Application Nos. D–6072 and D–6073]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by each of the Plans of a one-half interest in a parcel of unimproved real property (the Property) constituting 93.077 acres in Metamora Township, Lapeer County, Michigan to David Kellam, D.O. and to Donald Klein, D.O. as tenants in common for a purchase price in cash of $52,500 for each of the Plans, provided that the price received is no less than the fair market value of the Property on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 19, 1985 at 50 FR 33430.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Goldstein, Ballen, O'Rourke & Wildstein Target Benefit Plan (the Plan) Located in Passaic, New Jersey

[Prohibited Transaction Exemption 85–162; Exemption Application No. D–6084]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective May 1, 1985, to (1) the purchase by the Plan of a parcel of real property (the Property) for the benefit of Goldstein, Ballen, O'Rourke & Wildstein, P.A. (the Employer), the sponsor of the Plan; (2) a lease of the Property by the Plan to the Employer; and (3) the potential purchase of the Property by the Employer from the plan pursuant to a provision in such lease; provided that all terms of such transactions are at least as favorable to the Plan as the Plan could obtain in arm's-length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 9, 1985 at 50 FR 32331.

Effective Date: This exemption is effective May 1, 1985.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Vernon E. Weldon, M.D., Inc. Defined Benefit Pension Plan (the Plan) Located in San Rafael, California

[Prohibited Transaction Exemption 85–163; Exemption Application No. D–6113]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of two paintings (the Paintings) to Vernon E. Weldon, M.D., the Plan's sole participant and trustee, for the greater of

the appraised fair market value or the original purchase price for each Painting.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 19, 1985 at 50 FR 33431.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8884. (This is not a toll-free number.)

B.J. LaClair, M.D., P.A. Profit Sharing Plan and Trust Agreement (the Plan) Located in Sarasota, Florida

[Prohibited Transaction Exemption 85-164; Exemption Application No. D-6117]

Exemption

The restrictions of section 406 (a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(l)(A) through (E) of the Code, shall not apply to the cash sale of certain real property (the Property) by the Plan to Barry J. LaClair, M.D. and Rita C. LaClair, husband and wife and parties in interest with respect to the Plan, provided that the sale price of the Property is not less than the higher of either $210,000 or the fair market value on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 8, 1985, at 50 FR 27861.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523-7901. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 3rd day of October, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-24000 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-4427] et al.

Proposed Exemptions; Shirk, Work, Robinson and William Keogh Plan, et al.

AGENCY: Pension and Welfare Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, DC 20216.

Notice of Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Shirk, Work, Robinson and Williams Keogh Plan (the Plan) Located in Oklahoma City, Oklahoma

[Application No. D-4427]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the

[1] Since Dr. Weldon is the sole stock holder of Vernon E. Weldon, M.D., Inc., the Plan sponsor, and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510. 3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the loan to Mr. William J. Robinson (Mr. Robinson) of $40,000 from his account in the Plan, under the terms described in this notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party. Section 408(d)(1) of the Act provides that the Department lacks authority to grant an exemption under section 408(A) of the Act for the lending of any part of the corpus or the income of a plan to an owner-employee. Therefore, the Department cannot grant an exemption under Title I for the subject loan. However, the Department can grant an exemption under Title II of the Act, pursuant to section 4975 of the Code.

Summary of Facts and Representations

1. The Plan is a Keogh plan established by the Shirk, Work, Robinson & Williams law firm (the Employer). The Plan has four participants. Mr. Robinson, who is an owner-employee of the Employer, has an individually-directed account (the Account) within the Plan. As of July 9, 1985, the Account had total assets of approximately $162,000.

2. Mr. Robinson now wishes to borrow $40,000 from the Account. The proposed loan calls for interest payable at a fluctuating rate, which will fluctuate yearly. The rate will be 1½% above the prime rate charged by the Nichols Hill Bank of Oklahoma City, Oklahoma (the Bank). The loan will be for a period of 5 years, with payments of principal and interest to be made semi-annually. The interest rate and repayment schedule for the proposed loan are identical to those currently being charged on an existing loan by the Bank to Mr. Robinson. The proposed loan will be used by Mr. Robinson to repay the existing loan to the Bank.

3. The subject loan will be collateralized by a first security interest in Mr. Robinson's interest in a partnership called the Magnolia Development Company (the Partnership), and in certain third party notes (the Notes) owed to Mr. Robinson. Mr. Jimmie L. Cole, a partner in the independent accounting firm of Ernst & Whinney in Oklahoma City, Oklahoma, has appraised Mr. Robinson's interest in the Partnership as having a value of $18,396 as of July 31, 1985. In addition, Mr. Cole has appraised the Notes as having a fair market value of $45,000 as of July 31, 1985. Mr. Robinson has also agreed to assign as security to the Account his life insurance policy with Connecticut Mutual Life Insurance Company having a face value of $100,000. The Account's interests in the Notes and Partnership interest will be recorded in a financing statement filed with the County Clerk of Oklahoma County.

4. In summary, the applicant represents that the proposed transaction meets the criteria of section 4975(c)(2) of the Code because: (1) The loan represents less than 25% of the assets of the Account; 2) the terms of the loan are identical to the Account to those which would be required by an independent bank; (3) the loan will be secured by a first interest in collateral appraised by an independent appraiser as having a fair market value greater than 1½ times the principal amount of the loan; and 4) Mr. Robinson is the only Plan participant to be affected by the transaction, and he desires that it be consummated.

Notice to Interested Persons: Because Mr. Robinson is the only participant in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute this notice of proposed exemption to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register.**

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Butte Orthopedic and Fracture Clinic Pension and Profit Sharing Plans (the Plans) Located in Butte, Montana

[Application Nos. D–5603 and D–5604]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the lease of certain real property by the Plans to the Butte Orthopedic and Fracture Clinic (the Employer) for a 20-year period provided all of the terms of the proposed lease are as favorable to the Plans as those obtainable in a similar transaction with unrelated parties.

Effective Date: If this proposed Exemption is granted, it will be effective November 21, 1984.

Summary of Facts and Representations

1. Plans are a profit sharing plan and a money purchase pension plan. The Plans had approximately 10 participants each as of June 30, 1983. The Profit Sharing Plan had total assets of $1,358,093 and the Pension Plan had total assets of $831,459 as of June 30, 1983. The assets of the Plans are held in two separate accounts managed by James A. Poore III, the trustee of the Plans (the Trustee). The Trustee is, as directed by the individual participants of the Plans, responsible for the investment of the assets of the Plans. The Employer is a closely-held Montana professional service corporation with its principal place of business in Butte, Montana. It has been engaged in the business of rendering professional medical services since its incorporation in 1970.

2. Among the Plans' assets is a parcel of real property and building located at 225 South Clark Street, Butte, Montana (the Property). The Pension Plan owns 40 percent of the Property and the Profit Sharing Plan owns 60 percent. The Property represents approximately 12 percent of the combined total assets of the Plans and approximately 12 percent of the total assets of each Plan individually.

3. The Property is currently leased by the Plans to the Employer pursuant to a lease dated January 1, 1973 (the Old Lease). The applicant represents that the Old Lease was statutorily exempt until June 30, 1984 under section 414(c)(2) of the Act.[1]

4. The applicant proposes that the Plans and the Employer enter a new lease (the New Lease). The New Lease would be for a term of 20 years with an option to renew for 20 years with an initial rental rate of $94,752 per annum. The New Lease would provide for a review of the annual rental every three years on the anniversary date of the commencement of the New Lease. Such review would be conducted by an independent professional real estate appraiser selected by the Plans' independent fiduciary, who would make the rental adjustment, assuring that the new rate represented the fair market rental value of the Property. The New Lease would be a triple net lease, requiring the Employer to pay all repair

[1] The Department expresses no opinion as to the applicability of section 414 in this instance. The applicant represents that any excise tax which may be due as a result of the Old Lease after June 30, 1984 will be paid within 60 days after the granting of a final exemption.

and maintenance costs of the property, to pay all real estate taxes, and to carry public liability insurance and property damage insurance on the Property.

5. An appraisal of the Property was performed by Jack L. McLeod, an independent real estate appraiser located in Butte, Montana (the Appraiser). The Appraiser had determined that the fair market value of the Property as of March 18, 1985, was $265,900 and the fair market rental value of the Property was $44,850 per annum as of April 3, 1985. The Appraiser updated the appraisal of the Property and established the fair market rental value of the Property at $74,400 as of June 18, 1985. The Appraiser notes that the research he undertook after his appraisal of March 18, 1985 resulted in additional information which has increased his determination of the fair market rental value of the Property. Notwithstanding the foregoing, the Employer will pay an initial rental rate of $94,752.[2]

6. James P. Fitzmorris of Hicks Pension Services will serve as the independent fiduciary (Independent Fiduciary) for the new lease. This appointment became effective on November 21, 1984. The Independent Fiduciary represents that his full-time occupation is the administration and consulting of retirement plans, and that he is aware of the fiduciary responsibilities and liabilities imposed by the Act. He further represents that he has no involvement with the Employer, nor has his firm ever represented the Employer in any matter.

7. The Independent Fiduciary has reviewed the terms of the New Lease and analyzed them from an investment standpoint. He has found that the investment return, based on the current appraised value of the property, is very good. The Independent Fiduciary states that the fact that the Plans and the Employer have had a lease arrangement for a period of time is favorable to the Plans. He recommends that the Plans be allowed to continue such an arrangement. The Independent Fiduciary represents that, coupled with the current real estate and economic conditions in Butte, Montana, resulting from the closing of the copper mines, it would not be in the interest of the Plans to compel them to locate a third party lessee or to sell the Property at this point. The Independent Fiduciary believes that such would have a negative impact on the Plans.

8. The Independent Fiduciary will periodically, on an annual basis, monitor the terms of the New Lease. He will obtain an appraisal every three years on the anniversary date of the New Lease and adjust the rental payments according to the fair market value of the Property. The Independent Fiduciary will assure that insurance on the Property is maintained in an amount equal to its fair market value. When the initial period of the New Lease has ended, the Independent Fiduciary will examine the Plans' assets and other circumstances of the Plans, and determine whether or not the renewal is in the best interest of the Plans.

9. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The New Lease is a triple net lease requiring the Employer to pay all costs of repair and maintenance and all taxes and insurance on the Property;

(2) the New Lease requires periodic rental adjustments assuring that the Plans receive the fair market rental value of the Property, and

(3) the Plans' Independent Fiduciary has determined that the terms and conditions of the New Lease are arm's-length terms and contain adequate protections for the Plans.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Pension and Profit Sharing Plans Of Montana Urology, Inc. (the Plans) Located in Butte, Montana

[Application Nos. D-5605 and 5606]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(4) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the lease of certain real property by the Plans to Montana Urology, Inc. (the Employer) for a 20-year period provided all of the terms of the lease are as favorable to the Plans as those obtainable in a similar transaction with unrelated parties.

Effective Date: If this proposed exemption is granted, it will be effective on November 21, 1984.

Summary of Facts And Representations

1. The Plans are a profit sharing plan and a money purchase pension plan. The Plans had approximately five participants each as of March 31, 1984. The Profit Sharing Plan had total assets of $67,828 and the Pension Plan has total assets of $380,593 as of March 31, 1984. The assets of the Plans are held in two separate accounts managed by James A. Poore III, the trustee of the Plans (the Trustee). The Trustee is, as directed by the individual participants of the Plans, responsible for the investment of the assets of the Plans. The Employer is a closely-held Montana professional service corporation with its principal place of business in Butte, Montana. It has been engaged in the business of rendering professional medical services since its incorporation in 1971.

2. Among the Plans' assets is a parcel of real property and building located at 700 W. Gold Street, Butte, Michigan (the Property.). The Pension Plan owns 40 percent of the Property and the Profit Sharing Plan owns 60 percent. The Property represents approximately 25 percent of the total assets of the Pension Plan and approximately 22 percent of the total assets of the Profit Sharing Plan.

3. The Property is currently leased by the Plans to the Employer pursuant to a lease dated January 1, 1974 (the Old Lease.)[3] The applicant represents that the Old Lease was statutorily exempt until June 30, 1984 under Section 414(c)(2) of the Act.

4. The applicant proposes that the Plans and the Employer enter a new lease (New Lease). The New Lease would be for a term of 20 years with an option to renew for 20 years at an initial rental rate of $52,800 per annum paid in

[2] The Applicant represents that the proposed rental payment will not cause the contribution limitations imposed by section 415 of the Internal Revenue Code to be exceeded, and therefore, will not result in disqualification of the Plans.

[3] The Department expresses no opinion herein as to the applicability of section 414 in this instance. The applicant represents that any excise tax which may be due as a result of the Old Lease after June 30, 1984 will be paid within 60 days after the granting of a final exemption.

monthly installments of $4,400.[4] The New Lease would provide for a review of the annual rental every three years on the anniversary date of the commencement of the New Lease. Such review would be conducted by an independent professional real estate appraiser selected by the Plans' independent fiduciary, who would make the rental adjustment, assuring that the new rate represented the fair market value rental rate of the Property. The New Lease would be a triple net lease, requiring the Employer to pay all repair and maintenance costs of the Property, to pay all real estate taxes, and to carry public liability insurance and property damage insurance for the Property.

5. An appraisal of the Property was performed by Jack L. McLeod, an independent real estate appraiser located in Butte, Montana (the Appraiser). The Appraiser had determined that the fair market value of the Property as of March 15, 1985 was $245,000 and the fair market rental value of the Property was $33,363 per annum as of April 3, 1985. The Appraiser updated the appraisal of the Property on June 18, 1985 and established the fair market rental value of the Property at $45,495 per annum as of June 18, 1985. The Appraiser noted that since his appraisal for April 3, 1985 he had been exposed to additional leased properties which indicated that a higher yield was being paid for medical facilities. The Appraiser has therefore determined that the fair market rental value should be higher than his initial valuation. Notwithstanding the foregoing, the Employer will pay an annual rental of $52,800.

6. James P. Fitzmorris of Hicks Pension Services will serve as the independent fiduciary (Independent Fiduciary) for the New Lease. This appointment became effective on November 21, 1984. The Independent Fiduciary represents that his full-time occupation is the administration and consulting of retirement plans, and that he is aware of the fiduciary responsibilities and liabilities imposed by the Act. He further represents that he has no involvement with the Employer, nor has his firm ever represented the Employer in any matter.

7. The Independent Fiduciary has reviewed the terms of the New Lease and analyzed them from an investment standpoint. He has found that the investment return, based on the current appraised value of the Property, is very good. The Independent Fiduciary has consulted with appraisers and real estate agents in the area of Butte, Montana, and has determined that the rental rate the Employer will pay to the Plan is substantially greater than the current fair market rate and is thus a very favorable investment for the Plan. The Independent Fiduciary states that the fact that the Plan and the Plan Sponsor have had a lease arrangement for some time is favorable to the Plans. He recommends that the Plan be allowed to continue such an arrangement. The Independent Fiduciary also represents that, coupled with the current real estate and economic conditions in Butte, Montana resulting from the closing of the copper mines, it would not be in the interests of the Plans to compel them to locate a third party lessee or to sell the Property at this point. The Independent Fiduciary believes that such actions would have a negative impact on the Plans.

8. The Independent Fiduciary will periodically, on an annual basis, monitor the terms of the New Lease. He will obtain an appraisal every three years on the anniversary date of the New Lease and adjust the rental payments according to the fair market value of the Property. The Independent Fiduicary will assure that insurance on the Property is maintained in an amount equal to its fair market value. When the initial period of the New Lease has ended, the Independent Fiduciary will examine the Plans' assets and other circumstances of the Plans, and determine whether or not the renewal is in the best interests of the Plans.

9. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The lease is a triple net lease requiring the Employer to pay all costs of repair and maintenance and all taxes and insurance on the Property;

(2) The Lease requires periodic rental adjustments assuring that the Plans receive the fair market rental value of the Property, and

(3) The Plans' Independent Fiduciary has determined that the terms and conditions of the New Lease are arm's-length terms and contain adequate protections for the Plans.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Kedan, Inc., Defined Benefit Pension Plan (the Pension Plan) and Kedan, Inc. Money Purchase Pension Plan (the M.P. Plan; together, the Plans) Located in Waterbury, Connecticut

[Application Nos. D-5618 and D-5619]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) Loans made by the Plans to Kedan, Inc. (Kedan), under the terms and conditions described in this notice of proposed exemption, provided such terms and conditions are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party; and (2) the personal guarantee of repayment of the loans to the Plans by Mr. Alan Behan.

Temporary Nature of Exemption: If the proposed exemption is granted, it will be effective as to loans entered into within 5 years from the date of granting of the exemption.

Summary of Facts and Representations

1. Kedan maintains the Plans under separate trusts for its sole employee, Alan Behan (Mr. Behan). Mr. Behan's wife Barbara owns 100% of the issued and outstanding stock of Kedan. Mrs. Behan is the sole trustee of the Plans. As of October 14, 1984, the Pension Plan had approximately $175,000 in assets, and the M.P. Plan had approximately $24,000 in assets. Mr. Behan is fully vested in his interests in the Plans. He is the only participant in each Plan.[5]

[4] The applicant represents that the proposed rental payment will not cause the contribution limitations imposed by section 415 of the Internal Revenue Code to be exceeded, and, therefore, will not result in disqualification of the Plans.

[5] Since Barbara Mary Behan is the sole stockholder of Kedan and her husband Alan is the only participant in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

2. Kedan engages in the commercial and residential real estate development business, primarily in the State of Connecticut. Since its incorporation in 1981, it has been involved in approximately 15 projects. Currently Kedan obtains loans for its business activities from commercial lenders such as banks and savings and loan associations. These loans are required to be fully collateralized by mortgages on Kedan's property, and loan origination and other fees are routinely paid in connection with the placing of the loans.

3. The Plans currently invest a substantial portion of their assets in fully secured real estate loans to third parties. These loans have proved to be excellent investments and, at the current time, the Plans expect to continue making such loans. The Plans have requested an exemption to permit the Plans to make secured loans to Kedan.

4. The applicants have represented that not more than 25 percent of the dollar value of the assets of either Plan, at any given time, will be invested in the subject loans. The current value of the Plan assets and the current outstanding principal amount of loans will be used to determine the allowable 25 percent limit.

5. The security for the loans will be first mortgages on real estate where the total principal amount of the loan is not more than 66.6 percent of the value of the collateral real estate at the time of the loan. Kedan represents that the collateral to loan ratio will not be less than 150 percent. Collateral value will be established by an appraisal by independent persons.

6. Each loan will bear interest at the prevailing market rate for secured construction loans as determined by Colonial Bank or Woodbury, Connecticut (the Bank) at the time each loan is made. Prior to the making of each loan, Mr. Behan will secure from the Bank a quotation of the interest rate which the Bank would charge Kedan for a construction loan under the same circumstances as the proposed loan from the Plans. Mr. Behan will maintain the written quotations from the Bank in the Plans' records. No loan will exceed 18 months in duration. Mr. Behan represents that the repayment of the loans will be consistent with the prevailing practices regarding construction loans between commercial lenders and construction borrowers, in that no fixed amortization will be pre-arranged. Instead, the principal of each loan will be drawn down as construction progresses on each development project, and the entire amount of principal and interest will be repaid within 18 months of the the loan's origination.

7. The Bank has represented that it would currently make such a loan to Kedan at a rate of 11½ percent, with a loan origination fee of 1½ percent. These will be the terms of the first of the subject loans from the Plans. The Bank also states that a loan from it would be fully payable upon completion of the construction/development phase of the project, the sale of the property or the placing of permanent financing. In addition to the real property which would collateralize the loans, the Bank has represented that it would require the personal guarantee of Mr. Behan, which Mr. Behan will provide to the Plans for the subject loans.

8. In the event that Kedan subsequently hires any employees who become eligible to participate in the Plans, Kedan will establish a separate, identical plan for such employees, so that Mr. Behan is the only participant who will ever be affected by the subject transactions.

9. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 4975(c)(2) of the Code because: (1) The transactions will involve less than 25% of the assets of each Plan at all times; (2) the interest rate for the loan transactions will be identical to that which would be charged by the Bank, an independent commercial lender, for such loans; (3) all loans will have a collateral/loan ratio of at least 150%; (4) the loans will be secured by real property which will be appraised by independent qualified appraisers; and (5) Mr. Behan is the only participant in the Plans who will be affected by the proposed transactions, and he desires that the transactions be consummated.

Notice to Interested Persons: Since Mr. Behan is the only participant in the Plans to be affected by the proposed transactions, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register.**

For Further Information Contact: Mr. Gary Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Pension Plan for Employees of First National Bank of Akron (the Plan) Located in Akron, Ohio

[Application No. D-5623]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted for the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a parcel of land and the building thereon (together, the Property) by the Plan to the First National Bank of Akron (the Bank), for $550,000 in cash, provided such amount is not less than the fair market value of the Property on the date of the sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan established and maintained for the employees of the Bank. As of December 31, 1983, the Plan had approximately $20,236,630 in total assets and had approximately 1,130 participants.

2. On February 11, 1966, the Plan purchased real property from Old Trail School for $100,000. Prior to its purchase by the Plan the real property was subject to a lease between Old Trail School and the Bank. The Bank constructed a branch bank on the premises. On May 3, 1966, Old Trail School assigned the lease to the Plan. On February 3, 1968, the Plan purchased an adjoining tract of land from Old Trail School for $75,000. On April 26, 1968, the Plan entered into a new lease with the Bank. The lease covered both parcels of property. Thus, the Bank is currently leasing the land under a branch bank, and a parking lot, from the Plan. By the terms of the lease, when the lease expires the Bank will deliver and surrender to the Plan possession of the premises together with all improvements.

3. The Bank asserts that the lease was a lease involving a party in interest pursuant to a binding contract in effect on July 1, 1974, as defined under sections 414(c)(2) and 2003(c)(2)(B) of the Act, and therefore was statutorily exempt until June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act and section 4975 of the Code by virtue of sections 414(c)(2) and 2003(c)(2)(B) of the Act.[6] The Bank recognizes that the statutory exemption for the lease expired on June 30, 1984, and has therefore requested an

[6] The Department expresses no opinion as to whether the lease was statutorily exempt until June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act and 4975 of the Code by virtue of sections 414(c)(2) and 2003(c)(2)(B) of the Act.

exemption to permit the Bank to acquire the Property from the Plan. Because the lease would be considered terminated as of June 30, 1984, the Bank recognizes that it must purchase the bank building from the Plan in addition to the land.

4. The price to be paid by the Bank to the Plan for the Property is $550,000. This amount is to be paid in cash, and no commissions will be paid in connection with the sale. Mr. Howard W. Myers, MAI, SRPA, an independent appraiser in Akron, Ohio, has represented that as of May 21, 1985, the Property had a fair market value of $550,000, disregarding any lease on the premises.

5. The Bank recognizes that its continued leasing of the Property from July 1, 1984 until the date of closing of the subject sale constitutes a prohibited transaction. Accordingly the Bank represents that it will pay all excise taxes due and owing as a result of such prohibited transaction within 60 days of the granting of the exemption proposed herein.

6. The Bank also represents that it will pay to the Plan any deficiency in rent that may have occurred from July 1, 1984 until the date of closing of the subject sale, plus the appropriate interest for such period. The rental rate will be based on a factor that takes into consideration the fair market value of the building and the land for this period. The Bank represents that it will consult an independent appraiser to establish the fair market rental value for the Property for such period.

7. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The sale is a one-time transaction for cash; (2) no commissions will be paid on the sale; and (3) the sales price for the Property has been determined by a qualified, independent appraiser.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

The Travelers Separate Account "R" (the Account) Located in Hartford, Connecticut

[Application No. D-5722]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective October 9, 1984, to the lease of space in a building by the Account to the Travelers Insurance Company (Travelers), a party in interest with respect to the Account, provided that the terms of the lease are not less favorable to the Account than those terms obtainable with an unrelated party.

Effective Date: If granted, this exemption will be effective October 9, 1984.

Summary of Fact and Representations

1. The Account is a pooled open-ended real estate investment fund for the investment of qualified employee benefit plan assets. As of December 31, 1983, approximately 150 plans participated in the Account, and the Account had net assets of approximately $500 million. the total number of participants in the plans participating in the Account is over one million.

2. The Account is sponsored by the Travelers Corporation, the parent corporation of Travelers. Travelers, through its Real Estate Investment Department, currently manages over $9 billion in real estate investments of which approximately $6 billion represent the funds of retirement plans. Travelers serves as the asset manager of the Account.

3. In December, 1983, Travelers, on behalf of the Account, purchased an 8-story building located in Memphis, Tennessee (the Building). The Building is situated on 4.2 acres of land and has a total rentable area, including common areas, of 162,214 square feet. The Building is known as the Forum I and is specifically located at the corner of Poplar Avenue and Kirby Parkway, approximately 12 miles east of the Memphis central business district. The Building was completed in March, 1983.

4. The Building was purchased by the Account for $20.1 million from a subsidiary of the Vantage Companies (Vantage), an unrelated party with respect to the Account. Vantage has been responsible for over $2 billion of real estate development in the United States. As part of the sale agreement, Vantage agreed to "master lease" all vacant space from the closing of the sale until the earlier of December 31, 1986, or the first date that the Building is at least 95% occupied. The master lease provides that the Account will receive from Vantage an annual rental of $14.05 per square foot of vacant space in the Building. These payments will ensure the Account a cash return of 9.3% for the first three years of ownership of the Building. The master lease provides that space is considered vacant until a tenant actually pays its first monthly installment of rent.

5. The Account and Vantage also entered into an agreement providing the Vantage would serve as the leasing agent for the Building. This agreement provides that Vantage will locate tenants for available space in the Building subject to the approval of Travelers on behalf of the Account.

Vantage, on behalf, of the Account, began negotiations to lease space in the Building to Travelers in early 1984. The Account and Travelers thereby entered into a lease of 13,743 square feet of space on July 26, 1984, to be effective September 1, 1984. The lease term is for three years and provides Travelers an option to renew at the then market rate three years. The lease provides that the Account will pay all expenses with Travelers reimbursing the Account for all operating expenses over $3.00 per square foot per year. The initial rent is $15.50 per square foot, with a standard escalation clause for possible increases in taxes and operating costs. The lease is based on the standard lease form used by Vantage for all tenants of the Building. The lease provides that Travelers is given 8 months of rent free occupancy. The lease to Travelers constitutes approximately 8.5% of the space in the Building.

6. The Account appointed The Gates Company, Incorporated, (Gates) to serve as the independent fiduciary for the Account with regard to the lease. Gates is a real estate appraisal and brokerage company with over 20 years of commercial real estate experence in the Memphis, Tennessee area. Gates represents that it is particularly expert at reviewing commercial property and leases and has been retained for that purpose by many large corporations. Gates has no prior or other current business or commercial involvement with Travelers. Gates was advised by counsel in writing of its fiduciary duties and potential liabilities under the Act.

7. Gates was appointed to serve as fiduciary for the Account with regard to the lease prior to the effective date of the lease, but did not complete its review and determinations with respect to the lease until October 9, 1984. Accordingly, the applicant represents that Travelers will pay any excise tax which may be due for the period prior to the effective date of the exemption within 30 days of the date of publication in the Federal Register of a final exemption. The applicant further

represents, and the Department recognizes, that Part III of the class exemption on behalf of qualified professional asset managers (QPAM's) (Prohibited Transaction Exemption 84–14, 49 FR 9494, March 13, 1984) is not available for the lease because the lease of 13,743 square feet of space exceeds the 7,500 square feet maximum permitted by the class exemption.

8. With regard to Gates' determinations, Gates inspected the Building, completely reviewed the terms of the lease, and determined as of October 9, 1984, that the lease is appropriate and in the best interests of the Account. In making this determination Gates took into account the particular property, the size of the space leased, the quality of the tenant and other relevant factors. Gates specifically reviewed all the provisions of the lease including the free rent, and determined that such terms are typical of the terms commonly agreed to in commercial leases between unrelated parties in the Memphis area. Gates determined that the lease terms are not more favorable to Travelers than the terms generally available in arm's-length transactions between unrelated parties.

9. As mentioned, The Account received rent at $14.05 per square foot from Vantage under the master lease for the period prior to the receipt of rent from Travelers. Because Travelers occupies approximately 8.5% of the space in the Building, and the master lease provides that the Account will receive rental from Vantage until the earlier of December 31, 1986, or the first date the Building is 95% occupied, the Account received rental payments for the space now leased to Travelers since it acquired the building.

10. Gates has also reveiwed the rental rate for the space leased to Travelers and determined that such rate is the fair market rental for the space. In this regard, Gates represents that the receipt of rent by the Account of $14.05 for the space for the first 8 months and $15.50 for the remaining 28 months of the lease yields the Account and average rent of $15.18 per square foot. Gates represents that this yield is a substantial benefit to the Account and is not less than the fair market rental for the space.

11. Gates will also regularly monitor Travelers' performance of its obligations as leasee and will enforce Traveler's obligations under the lease on behalf of the Account. Gates will have the authority as fiduciary of the Account to approve or not approve any exercise by Travelers of its option to renew the lease, and will negotiate the terms of any such renewal on behalf of the Account.

12. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act because (a) Gates, a qualified independent fiduciary, has determined that the lease is appropriate and is in the best interests of the Account; (b) Gates has determined that the lease is upon terms not less favorable than those obtainable with an unrelated party; and (C) Gates will monitor the lease and enforce the obligations of Travelers on behalf of the Account.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Advance Business Corporation Employees Profit Sharing Plan & Trust (the Plan) Located in Westmont, Illinois

[Application No. D–5727]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, for a period of 5 years, to the proposed loans by the Plan of up to 25% of its assets to Advance Business Corporation (the Employer) and to the guarantee of repayment on the loans by the shareholders of the Employer, provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted will expire five years after the date of grant with respect to the making of any loan. Subsequent to the expiration of this exemption, the Plan may hold loans originated during this five year period until the loans are repaid. Should the applicant wish to continue entering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan with 65 participants and approximately $385,965 in total assets as of February 29, 1984. Messrs. Gordon L. Shankland, J. Kimberly Prescott and Charles J. Glasner, all employees of the Employer, serve as the Plan's trustees.

2. An exemption is requested to allow the Plan, for a period of 5 years, to make loans on a recurring basis to the Employer involving up to 25% of the Plan's assets. The proceeds of the loans will be used by the Employer to purchase motor vehicles.

3. The Plan proposes to make an initial loan of $50,000 to the Employer, with additional loans contemplated subject to the 25% limitation. The initial loan will be secured by automobiles in the Employer's current inventory with a value at least equal to 175% of the principal amount of the loan. The applicant represents that the fair market value of the automobiles will be determined in accordance with the then current National Market Reports, Inc. Red Book for Region A (Red Book).[1] Should the value of the collateral decrease prior to the distribution of the loan proceeds (as determined by the Red Book), the principal amount of the loan will be decreased so that the 175% collateral to loan ratio is maintained. The initial loan will be guaranteed by the shareholders of the Employer. The term of the loan will be 48 months, with principal and interest amortized in equal quarterly payments over the term of the loan. The interest rate for this loan will be 1% over the prime rate charged by the Bank of Westmont. The applicant states that the Bank of Westmont, in a letter dated December 27, 1984, has represented that it would make a loan in the amount of $50,000 to the Employer secured by a security interest in automobiles valued at 150% of the amount borrowed, at an interest rate of prime plus 1%.

4. All subsequent loans between the Plan and the Employer will be subject to the following conditions:

(a) Each loan will be evidenced by a promissory note secured by a perfected first lien on the automobiles purchased;

(b) Each loan will be secured by collateral which at all times will be at least 150% of the outstanding loan balance;

(c) Each financed automobile will be a new vehicle purchased by the Employer;

(d) The amount of the Plan's loan for each financed automobile will not exceed 80% of that vehicle's purchase price;

(e) The term of each loan will be between 36 and 48 months;

[1] The applicant represents that the current value of the automobiles securing the initial loan based on the Red Book is $93,455.

(f) The interest rate on the loans will be either 1% over the rate quoted by General Motors Acceptance Corporation (GMAC) or that charged by the Bank of Westmont on new car loans; whichever is greater.

(g) Principal and interest on the loans will be amortized in equal quarterly payments;

(h) Each financed automobile will be insured by the Employer with the Plan named as primary loss payee; and

(i) Each of the loans will be personally guaranteed by the shareholders of the Employer *

5. The applicant represents that prior to making any additional loans, the Plan's trustees will obtain a statement from GMAC and/or the Bank of Westmont that financing would be available to the Employer for each automobile financed by the Plan and the terms of such financing, with the terms being offered to the Plan being at least equal to those offered by GMAC or the Bank of Westmont. Also, in the event of sale of the automobile, refinancing of the automobile, or material damage to the financed automobile, all sums owing to the Plan become immediately due and payable.

6. The trustees of the Plan have appointed Mr. Wayne L. Schoemaker (Mr. Schoemaker), a certified public accountant, to serve as independent fiduciary with respect to the proposed loans. Mr. Schoemaker represents that he has reviewed loans on behalf of his clients and also performs services for qualified plans under the Act. As a result of his work experience, he represents that he is aware of his responsibilities and duties as a fiduciary under the Act. Mr. Schoemaker represents that less than 1% of his firm's gross annual billings are derived from business dealings with the Plan and the Employer.

Mr. Schoemaker represents that after reviewing the initial application for exemption dated August 17, 1984 and the amendments dated October 5, 1984, November 21, 1984 and January 5, 1985, as well as the financial statements of the Employer, the Plan and the guarantors, he has determined that the loans described are appropriate and suitable for the Plan. Mr. Schoemaker will make the same determination immediately prior to each disbursement of loan proceeds from the Plan to the Employer, taking into account all relevant facts and circumstances at the time of such disbursement. In arriving at this conclusion, Mr. Schoemaker has reviewed the proposed loans with respect to (a) the Plan's overall investment portfolio, (b) the cash flow needs of the Plan, (c) the necessity of the sale of any of the Plan's assets, (d) the diversification of the Plan's assets, both before and after each loan, and (e) the terms of the loan as such terms conform with the Plan's investment policy. Mr. Schoemaker reports that the proposed interest rate of 1% above the prime rate charged by GMAC or the Bank of Westmont, whichever is greater, is appropriate given the type of loans, the amount of the loans, the terms of the loans and the collateral used to secure the loans.

Mr. Schoemaker has agreed to accept the responsibility to enforce the terms of the loan agreement between the Employer and the Plan, including making demands for timely payment, bringing suit or other appropriate process against the Employer in the event of default and insuring that accurate records are kept regarding the loans. Mr. Schoemaker will take whatever steps are necessary to insure that at the inception of any loan the value of the pledged collateral remains equal to at least 150% of the outstanding balance of the loan.

7. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loans will be approved and monitored by an independent fiduciary;

(b) The loans will be secured by collateral which at all times will be at least 150% of the outstanding loan balance;

(c) The loans will be personally guaranteed by the stockholders of the Employer; and

(d) The Plan's independent fiduciary has determined that the transactions are appropriate and suitable for the Plan.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Schenley Industries, Inc. Employees' Retirement and Benefit Plan (the Plan) Located in New York, New York

[Application No. D-5848]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1974). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not not apply to the cash sale by the Plan to John Hancock Mutual Life Insurance Company (the Company) of the Plan's interests in certain real property maintained by the Company in a non-pooled separate account, provided the amount paid for the interests is not less than fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Company is a mutual life insurance company organized under the laws of Massachusetts. The Company issued a Group Annuity Contract (the Contract) to the Plan in 1965. Plan contributions under the Contract were allocated to several classes of a non-pooled separate account (the Account). Schenley Industries, Inc. (the Employer) discontinued making contributions under the Contract in 1970. There is no relationship between the Employer and the Company other than the Contract.

2. The Plan is a defined benefit pension plan with approximately 3,790 participants and total assets having a fair market value of approximately $42.5 million as of December 31, 1984. The assets in the Account have a fair market value of approximately $2.9 million. An Investment Committee (the Committee), comprised of three individuals with extensive investment experience who were hired by the Employer for the exclusive purpose of acting as fiduciaries for the Plan, has overall investment authority for the Plan; however, the Company retains investment authority over Plan assets remaining in the Account. The members of the Committee are Amos Kaminski, Arthur F. McGinnes, and Donald L. Miller. The Committee has expressed an interest in liquidating all remaining assets in the Account.

3. Seven investments remain in the Real Estate Class of the Account. Each of these investments inovlves a first mortgage loan made in the mid-1960's. The Plan holds a 25% interest in each investment, with the remaining 74% interest allocated to the Company's general account. The interests of the Plan and the Company in these mortgages are indivisible, and each mortgage is evidenced by a single promissory note and deed of trust. None of the mortgagors were parties in interest with respect to the Plan. The mortgages carry fixed rates of interest ranging between 5.25% and 6% and were originally made in amounts varying between $604,350 and $3,500,000. The mortgages mature at varying dates between December 1985 and December

* The applicant represents that the combined net worth of all the guarantors is in excess of $750,000.

1990. Five of the mortgages are in good standing and had a total unpaid principal balance of $882,250 on October 1, 1984. First Boston Corporation, an investment banking firm experienced in trading fixed income securities, including mortgage-backed securities, determined that the fair market value of these mortgages was $740,347 as of September 30, 1984. Two mortgage loans were determined to be in default by the middle of 1982, following unsuccessful attempts to restructure the loans. Title to the foreclosed properties was subsequently acquired by the Company as the sole bidder at the foreclosure sales. The resulting equity interests were allocated between the Account and the Company's general account in the same proportion as their interests in the mortgage loans prior to the foreclosure. On April 4, 1984 the foreclosed properties were appraised at a combined fair market value of $1,914,000 by Lee Cissna III, President of Cissna Associates, Inc., Real Estate Appraisers and Consultants.

4. The Committee intends to liquidate the remaining assets in the Real Estate Class of the Account. The two foreclosed properties are producing no income and require substantial expenditures to maintain. The remaining mortgage loans are in good standing; however, they were made when interest rates were substantially lower, and no longer provide a favorable return on the Plan's investment.

5. The Company proposes to purchase the Plan's assets in the Real Estate Class of the Account. The Company and the Committee acting as independent fiduciary for the Plan have agreed that the purchase price of the five loans in good standing will be the fair market value of the loans as determined by First Boston Corporation on September 30, 1984 plus accrued interest from that date until the date of sale equal to the interest rate of 30-day Treasury notes. The method of computing the sale price of the Plan's equitable interest in the two foreclosed properties was also negotiated between the Company and the Committee acting as independent fiduciary for the Plan. The Committee determined that the appraised fair market value of the Plan's interest in the foreclosed properties, adjusted for its share of operating losses, capital items, and expenses, would result in net proceeds to the Plan of $234,850, and concluded that a sale price based on the principal balance of the mortgages on the date of foreclosure would result in a higher net return for the Plan. In October of 1984, the Committee and the Company agreed on a sale price of $389,375, which was computed by adjusting the $492,750 principal balance by a discount rate equal to the interest rate of Treasury securities of comparable maturity plus one-half of one percent. The sale price will be increased by interest equal to the interest rate of 30-day Treasury notes until the transfer date. The proposed sales will be fore cash and will not involve the payment of any fees or commissions by the Plan.

6. In summary, the application states that the proposed transaction will satisfy the criteria set forth in section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the transfer from the Account, including the consideration to be paid for the interests in question, has been negotiated and approved by the Committee acting as the independent fiduciary for the Plan; (c) the sale will enable the Plan to liquidate certain investments which have been unprofitable; and (d) the sales price to be paid by the Company for the Plan's interests will be at least as favorable as that obtainable in an arm's length transaction with an unrelated party.

For Further Information Contact: Ms. Linda Shore of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

Ferndale Development Corporation Pension Plan (the Pension Plan) and Ferndale Development Corporation Money Purchase Pension Plan (the M.P. Plan; Together, the Plans) Located in Waterbury, Connecticut

[Application Nos. D-6047 and D-6048]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) Loans made by the Plans to Ferndale Development Corporation (Ferndale), under the terms and conditions described in this notice of proposed exemption, provided such terms and conditions are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party; and (2) the personal guarantees of repayment of the loans to the Plans by Mr. Alan Behan (Mr. Behan) and Mr. Thomas E. Deeley (Mr. Deeley).

Temporary Nature of Exemption: If the proposed exemption is granted, it will be effective as to loans entered into within 5 years from the date of granting of the exemption.

Summary of Facts and Representations

1. Ferndale maintains the Plans under separate trusts for its two employees, Mr. Behan and Mr. Deeley. Mr. Behan and Mr. Deeley each own 50% of the issued and outstanding stock of Ferndale. Mr. Deeley is the sole trustee of the Plans. As of November 30, 1984, the Pension Plan had approximately $163,000 in assets, and the M.P. Plan had approximately $49,000 in assets. Mr. Behan and Mr. Deeley are fully vested in their interests in the Plans. They are the only participants in each Plan.

2. Ferndale engages in the commercial and residential real estate development business, primarily in the State of Connecticut. Since its incorporation, it has been involved in numerous such projects. Currently Ferndale obtains loans for its business activities from commerical lenders such as banks and savings and loan associations. These loans are required to be fully collateralized by mortgages on Ferndale's property, and loan origination and other fees are routinely paid in connection with the placing of the loans.

3. The Plans currently invest a substantial portion of their assets in fully secured real estate loans to third parties. These loans have proved to be excellent investments and, at the current time, the Plans expect to continue making such loans. The Plans have requested an exemption to permit the Plans to make secured loans to Ferndale.

4. The applicant has represented that not more than 25 percent of the dollar value of the assets of either Plan, at any given time, will be invested in the subject loans. The current value of the Plan assets and the current outstanding principal amount of loans will be used to determine the allowable 25 percent limit.

5. The security for the loans will be first mortgages on real estate where the total principal amount of the loan is not more than 66.6 percent of the value of the collateral real estate at the time of the loan. Ferndale represents that the collateral to loan ratio will not be less than 150 percent. Collateral value will be established by an appraisal by independent persons.

6. Each loan will bear interest at the prevailing market rate for secured construction loans as determined by Colonial Bank of Woodbury.

Connecticut (the Bank) at the time each loan is made. Prior to the making of each loan, Ferndale will secure from the Bank a quotation of the interest rate which the Bank would charge Ferndale for a construction loan under the same circumstances as the proposed loan from the Plans. Mr. Deeley will maintain the written quotations from the Bank in the Plans' records. No loan will exceed 18 months in duration. Ferndale represents that the repayment of the loans will be consistent with the prevailing practices regarding construction loans between commercial lenders and construction borrowers, in that no fixed amortization will be pre-arranged. Instead, the principal of each loan will be drawn down as construction progresses on each development project, and the entire amount of principal and interest will be repaid within 18 months of the loan's origination.

7. The Bank has represented that it would currently make such a loan to Ferndale at a rate of 11½ percent, with a loan origination fee of 1½ percent. These will be the terms of the first of the subject loans from the Plans. The Bank also states that a loan from it would be fully payable upon completion of the construction/development phase of the project, the sale of the property or the placing of permanent financing. In addition to the real property which would collateralize the loans, the Bank has represented that it would require the personal guarantees of Mr. Deeley and Mr. Behan, which Mr. Deeley and Mr. Behan will provide to the Plans for the subject loans.

8. In the event that Ferndale subsequently hires any employees who become eligible to participate in the Plans, Ferndale will establish a separate, identical plan for such employees, so that Mr. Behan and Mr. Deeley are the only participants who will ever be affected by the subject transactions.

9. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because: 1) the transactions will involve less than 25% of the assets of each Plan at all times; 2) the interest rate for the loan transactions will be identical to that which would be charged by the Bank, an independent commerical lender, for such loans; 3) all loans will have a collateral/loan ratio of at least 150%; 4) the loans will be secured by real property which will be appraised by independent qualified appraisers; and 5) Mr. Behan and Mr. Deeley are the only participants in the Plans who will be affected by the proposed transactions, and they desire that the transactions be consummated.

Notice to Interested Persons: Since Mr. Behan and Mr. Deeley are the only participants in the Plans to be affected by the proposed transactions, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register.**

For Further Information Contact: Mr. Gary Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Computer Planning & Management, Inc. Defined Benefit Pension Plan (the Pension Plan) and Computer Planning & Management, Inc. Money Purchase Pension Plan (the Money Purchase Plan; Together, the Plans) Located in Reston, Virginia

[Application Nos. D-6049 and D-6050]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) A proposed series of loans (the Loans), over a period of five days, by the Plans to Computer Planning & Management, Inc. (the Employer), the sponsor of the Plans; and (2) the proposed personal guarantee of the Employer's obligations under the Loans by Thomas E. Deeley, Jr. (Deeley), a party in interest with respect to the Plans; provided that all terms of such transactions are at least as favorable to the Plans as the Plans could obtain in arm's-length transactions with unrelated parties.

Temporary Nature of Exemption: This exemption, if granted, shall be effective for a period of five years commencing with the date on which the exemption becomes final.

Summary of Facts and Representations

1. The Plans are a defined benefit plan and a defined contribution plan in which the sole participant is Deeley, who is also the sole trustee of the Plans and the sole stockholder of the Employer.[*] As of January 31, 1985, the Pension Plan had total assets of $189,000 and the Money Purchase Plan had total assets of $12,000. Deeley is fully vested in his interests in each Plan. The Employer is a closely-held Virginia corporation engaged in computer software development, specializing in business management consultation, and is beginning to diversify into commercial and residential real estate development.

2. The Plans currently invest a substantial portion of their assets in fully secured real estate loans to unrelated third parties. Deeley represents that this has proven to be an excellent investment vehicle for the Plans and that he intends the Plans to continue to make such loans. Pursuant to the Employer's intended diversification into commercial and residential real estate development, Deeley proposes that the Plans make secured loans to the Employer (the Loans), under the terms and conditions proposed herein, to enable the Employer to obtain and develop such estate projects, and is requesting an exemption to permit the Loans and to permit Deeley's personal guarantee of the Employer's obligations under the Loans.

3. Deeley proposes that the Loans will be made over a five year period commencing with the effective date of this exemption, if granted. Not more than 25 percent of the dollar value of the Plans' assets will be invested in the Loans at any given time as determined by the current value of the Plans' assets and the current outstanding principal amount of the Loans at any given time. Each Loan will be secured by a first mortgage on a parcel of commercial or residential real property which has an appraised fair market value of no loss than 150 percent of the principal amount of such Loan. As further security, Deeley will personally guarantee the Employer's obligations under each Loan. Each Loan will bear interest at the prevailing market rate for secured construction loans as determined by the Colonial Bank of Woodbury, Connecticut (the Bank) at the time each Loan is made and will include the Employer's payment of a loan origination fee to the Plans if the Bank states that it would charge the Employer such a fee for such a loan. Prior to the making of each Loan, Deeley will secure from the Bank a letter which will indicate: (1) Whether the Bank would approve a construction loan to the Employer on the same terms as those of the Employer's proposed Loan from the

[*] Since Thomas E. Deeley, Jr. is the sole stockholder of the Plans' sponsor and the only participant in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Plans, (2) the Bank's prevailing interest rate for such construction loans at the time of the Employer's proposed Loan from the Plans, and (3) whether the Bank would charge the Employer a loan origination fee for such a construction loan and, if so, the amount of such a fee. Deeley will maintain the written quotations from the Bank in the Plans' records. No Loan will exceed 18 months in duration. Deeley represents that repayment of the Loan will be consistent with the prevailing practices regarding construction loans between commercial lenders and construction borrowers, in that no fixed amortization will be pre-arranged. Instead, the principal of each Loan will be drawn as construction progresses on each development project and the entire amount of principal and interest will be repaid within 18 months of the Loan's origination. With respect to the first of the proposed Loans from the Plans, the Employer has submitted to the Department a letter from the Bank dated August 13, 1985. The Bank states that it would currently make such a loan to the Employer at an interest rate of 11½ percent and that the Bank would charge the Employer a loan origination fee of 1½ percent for such a loan. Accordingly, the first of the proposed Loans will bear an annual interest rate of 11½ percent and will include the Employer's payment of a loan origination fee to the Plans in the amount of 1½ percent of the first Loan's principal amount. The Bank also states that a loan from it would be fully payable upon completion of the construction/development phase of the project, the sale of the property or the placing of permanent financing. In addition to the real property which would collateralize the loans, the Bank has represented that it would require Deeley's personal guarantee, which Deeley will provide to the Plans for the subject Loans.

4. It is Deeley's intention that he will remain the sole participant in each Plan for the duration of the five-year period to be covered by this exemption, if granted. Deeley represents that in the event other individuals become eligible for participation in either Plan, a separate plan or plans with the same provisions as the Plan(s) will be established for such future participants. Thus, Deeley is the only participant in the Plans who will be affected by the Loans. Deeley represents that all proposed terms and conditions of the Loans are at least as favorable to the Plans as those which the Plans could obtain in real estate constructions loans to unrelated third parties.

5. In summary, the applicant represents that the criteria of section 4975(c)(2) of the Code are satisfied in the proposed transactions for the following reasons: (1) Each Loan will be secured by real property with an appraised value of at least 150 percent of the principal amount of each Loan; (2) The Loans will involve no more than 25 percent of the assets of the Plans at the time each Loan is made; (3) Deeley will be the only participant in the Plans to be affected by the Loans and he desires that the transaction be consummated.

Notice to Interested Persons: Because Deeley is the sole shareholder of the Plans' sponsor and the only participant in the Plans, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

West Tennessee Motor Express, Inc. Profit Sharing Plan; M&S Company, Inc. Sharing Plan (Collectively, the Plans) Located in Nashville, Tennessee

[Application Nos. D-6067 and D-6068]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of the section 406(a) and 406 (b)(1) and (b)(2) Of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) throught (E) of the Code shall not apply to the proposed sale of certain mortgage notes by the Plans to three participants of the Plans, provided that the sales price of such notes is not less than their fair market value on the date of the sale.

Summary of Facts and Representations

1. The Plans are defined contribution plans with a combined total of twenty-four participants and total assets of $664,330 as of April 19, 1985. The trustees of the Plans, and the decision-makers with respect to the proposed transaction, are Messrs. Robert Cowan, Dean Burleson, and Wade Birdwell (the Trustees). Mr. Burleson and Mr. Birdwell were employees of West Tennessee Motor Express, Inc. and M&S Company, Inc. (the Employers), the sponsors of the Plans. Mr. Cowan is a local attorney.

2. The applicant states that the Employer's businesses have been discontinued due to the death of Mr. Jack Murphree, the majority shareholder of the Employers, in July 1984. The applicant states further that termination of the Plans and distribution of the assets is necessary because the Employers can no longer maintain the Plans.

3. The Plans recently sold a certain asset, the Nashville Terminal (the Property), which they had jointly owned and leased to Jimco, Inc., an unrelated party. Tennessee-Ohio Express, another unrelated party, purchased the Property for $300,000 by a cash payment of $100,000 and delivery of mortgage notes (the Notes) totalling $200,000. The Notes call for payment over a 15-year period with interest at a rate of 12% per annum. The application states that the Trustees negotiated for an all cash transaction on the sale but were unable to obtain such terms. The Trustees accepted the purchase of the Property with the Notes because the total offer was considerable more than two recent appraisals of the Property. Thereafter, the Trustees attempted to sell the Notes, but all local banks informed the Trusts that they were no longer purchasing such notes.

4. The Trustees gave the participants of the Plans an option to receive their distributions in cash with a partial interest in the Notes. However, the applicant states that all but three of the participants elected to receive their distributions in cash only. The three participants who elected to receive an interest in the Notes were Messrs. Burleson and Birdwell, who are two of the Trustees, and Mr. Donald Shelton (the Participants). The total interest of the Participants in the Plans is approximately $130,000.

5. The Notes were appraised on April 18, 1985 and May 21, 1985 by the Third National Bank of Nashville (the Bank), an independent party, as having a fair market value of $179,000. The Bank states that the price recommended for sale of the Notes is based on a market sale of similar mortgage notes with the same terms as of the date of the appraisal.

6. The Participants propose to receive the Notes as a distribution in kind from the Plans and to purchase with cash the additional amount represented by the Bank's appraised value of the Notes. The applicant proposes to have the Notes converted into six separate notes for the Participants in order to avoid any joint interest in the Notes and to allow each Participant an option to roll their

notes over to an individual retirement account. Each of the Participants would receive two notes. One note would represent a distribution in kind of the amount due the Participant under the Plans (the Distribution). The other note would represent the difference between the amount involved in the Distribution to the Participant and the appraised value of the Notes which is being purchased by the Participant (the Transaction). The Bank will provide an updated appraisal of the value of the Notes as of the date of the Transaction. The applicant states that the Plans will not incur any expenses in connection with the Transaction. The applicant states further that the cash proceeds received by the Plans as a result of the Transaction will be used to pay benefits to the other participants of the Plans.

7. In summary, the applicant represents that the Transaction satisfies the criteria of section 408(a) of the Act because: (a) The Transaction will be a one-time cash transaction; (b) the Plans will receive the fair market value of the Notes as determined by the Bank, and independent party; and (c) the Plans will not pay any expenses in connection with the Transaction.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 53-8195. (This is not a toll-free number.)

Mark Johnson Enterprises, Inc. Retirement Trust (the Trust) Located in Anaheim, California

[Application No. D-6125]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedurs set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1957). If the exemption is granted the restrictions of the section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed exchange of a certain parcel of unimproved real property (Parcel X) owned by the individually directed account of Mark C. Johnson in the Trust (the Account) for another parcel of real property (Parcel Y) owned by the Johnson Family Trust (the Family Trust), a party in interest with respect to the Trust, provided that the fair market value of Parcel Y is no less than the fair market value of Parcel X at the time the transaction is consummated.

Summary of Facts and Representations

1. The Trust is a funding vehicle for the Mark Johnson Enterprises, Inc. Profit Sharing and Money Purchase Pension Plans (the Plans). The Plans had nine participants and total assets in the Trust of approximately $800,000 as of April 15, 1985. The total balance of the Account was $538,916.85 at that time.

2. The Plans are sponsored by Mark Johnson Enterprises, Inc., a California corporation engaged in the business of medical product distributions to health care facilities, located at 5100 E. Hunter, Anaheim, California. Mr. Mark C. Johnson and Ms. Dianne S. Johnson are the trustees for the Trust (the Trustees), as well as for the Family Trust.

3. Parcels X and Y are located on opposite sides of Heath Terrace in Anaheim, Orange County, California. Heath Terrace is a private drive and is the first street westerly of Donna Court, on the south side of Rio Grande Drive. The applicant represents that on March 11, 1983, the Account acquired Parcel X, along with the purchase of a larger parcel of land adjacent to Parcel Y on the opposite side of Heath Terrace, from B.S.I. Corporation for $130,000. The applicant represents further that on the same date, the Family Trust acquired Parcel Y, along with a larger parcel of land adjacent to Parcel X on the opposite side of Heath Terrace, from Don and Beverly La Pierre for $310,000. As a result of these transactions, the Account presently owns the property adjacent to Parcel Y on the same side of Heath Terrace as Parcel Y, and the Family Trust owns the property adjacent to Parcel X on the same side of Heath Terrace as Parcel X. The applicant states that these purchases by the Account and the Family Trust were from separate, unrelated owners and were not contingent or connected in any way with one another.

4. The applicant represents that the Account and the Family Trust desire to exchange Parcel X for Parcel Y in order to enhance the value of the separate, continguous parcels of property owned respectively by the Account and the Family Trust. Thus, after the transfer, the Account would own Parcel Y and the Family Trust would own Parcel X. The applicant states that Parcel Y is a long, narrow strip of land, part of which is a canyon bottom and the remainder is steep upslope. The canyon bottom area is encombered with several easements that render it unbuildable and the upslope area is too narrow and steep. Parcel Y contains 0.2680 acres. The applicant states that Parcel Y is valuable to the Account because it provides the only access to the property adjoining its southerly boundary and the property to the east and southeast which is owned by the Account. The applicant states further that Parcel X contains 0.1637 acres, approximately 4350 square feet of which is part of the adjoining building pad owned by the Family Trust. Parcel X, by itself, is not a buildable site since the remainder of the area is fairly steep slope. The applicant concludes that Parcel X is vauable to the Family Trust since it will enhance the value of the contiguous parcel which the Family Trust owns but is of little value to the Account due to the steep topography and access problems.

5. Parcels X and Y were appraised on January 21, 1985 by Trenholm Bartlett, M.A.I. (Mr. Bartlett), and independent real estate appraiser in El Toro, California. The appraisal states that the value of Parcel X, in joinder with the adjacent property containing the graded building pad, is $105,000. The appraisal states further that the value of Parcel Y, in joinder with the adjacent property, is $105,000. In each case, Mr. Bartlett determined that an appropriate valuation of Parcels X and Y would be their values in joinder with the adjacent properties because their separate values would be only a nominal amount. Thus, Mr. Bartlett's appraised values of $105,000 represent an estimate in terms of the increase both Parcel X and Parcel Y would have to the value of their adjacent properties through joinder with them. By letter dated June 29, 1985, Mr. Bartlett stated that the fair market value of either Parcel X or Parcel Y standing alone would be $25,000, and that the only potential buyer would be a speculator.

6. The applicant represents that since the values of Parcels X and Y are equivalent, a simple exchange of those properties is reasonable and fair. The applicant states that the transaction is in the best interest of the Account because the property being acquired, Parcel Y, will enhance the value of the adjacent property owned by the Account. Further, the only assets of the Trust involved are those of the Account. The transaction represents only about 4.6 percent of the assets of the Account, as valued on April 15, 1985, based on the fair market value of Parcel Y by itself. The applicant states that the appraisal of Parcels X and Y will be updated to assure that the fair market value of each parcel is equal at the time of the exchange.

7. The applicant states that no sales commissions, selling expenses or other costs associated with the closing of the exchange will be incurred by the Account.

8. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The transaction is a simple exchange of one parcel of property for another; (b) the Account will receive property with a fair market value based on an independent appraisal which is equivalent to the property being exchanged; (c) no commissions or other selling expenses will be incurred by the Account in connection with the transaction; (d) the Account will divest itself of property which by itself is not marketable and will receive property which will enhance the value of the adjacent property owned by the Account; and (e) Mark Johnson is the only participant in the Plans to be affected by the transaction, and as Trustee he has determined that the transaction is appropriate and in the best interests of the Account.

Notice to Interested Persons: Because Mark Johnson is the only participant in the Plans to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice or proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register.**

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

Smallwood, Reynolds, Stewart, Stewart & Associates, Inc. Profit Sharing Plan and Trust (the Plan) Located in Atlanta, Georgia

[Application No. D-6136]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of the section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale by the Plan of 18,562 shares of the common stock of JH Restaurants, Inc. to Smallwood, Reynolds, Stewart, Stewart & Associates, Inc. (the Employer), the sponsor of the Plan and a party in interest with respect to the Plan, for cash in the amount of $35,000, provided that such amount is not less than the fair market value of the shares on the date of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which had 53 participants and net assets of approximately $799,510 as of July 31, 1984. The trustees (the Trustees) of the Plan and decision-makers with respect to Plan investments are Messrs. Phillip Smallwood, William Reynolds, Howard Stewart and John Stewart. The Trustees are also the officers, directors and sole shareholders of the Employer, a law firm.

2. In March, 1983, the Trustees purchased, on behalf of the Plan, one of forty equal limited partnership units in Hart-Orleans, Ltd. (the Partnership), a Georgia limited partnership, at a cost of $35,000. The general partner and all other investers in the Partnership are unrelated to the Plan. The Partnership was formed to develop and operate up to fifteen "Po-Folks" restaurants in the New Orleans, Louisiana area. The general partner of the Partnership was Jomarbe-Hart, Inc. (now JH Restaurants, Inc.).

The applicant states that the Trustees purchased the Partnership interest for the Plan because it seemed to offer the potential for a great deal of capital appreciation. At the time of the investment, the Plan's assets were primarily invested in certificates of deposit and the Trustees viewed the Partnership interest as an excellent way of diversifying the Plan's portfolio.

In July and October, 1984, subsequent to the Plan's investment in the Partnership, Messrs. Phillip Smallwood, William Reynolds and Howard Stewart executed equipment and real estate leases with JH Restaurant, Inc. In lieu of lease payments, JH Restaurants, Inc. issued shares of its common stock to Messrs. Smallwood, Reynolds and Stewart, each of whom now owns 4,000 shares of JH Restaurants, Inc. common stock. These 12,000 shares, however, consitute less than .16% of the outstanding, stock of JH Restaurants, Inc.

3. Since its inception, the Partnership has suffered continual and substantial losses. On September 30, 1984, JH Restaurants, Inc. purchased the assets of the Partnership for 750,000 shares of the common stock of JH Restaurants, Inc. and the assumption of $350,000 in liabilities of the Partnership. The net book value of the Partnership at that time was approximately $900,000. Each owner of a unit of the Partnership, including the Plan, received 18,562 shares of the common stock of JH Restaurants, Inc. Since the Plan's acquisition of the JH Restaurants, Inc. common stock, JH Restaurants, Inc. has been operating at a substantial loss. The Trustees believe that such losses will continue in the future and that the value of the JH Restaurants, Inc. common stock will remain constant or decline.

4. On August 1, 1984, JH Restaurants, Inc. completed a private placement offering of 1,700,000 shares of common stock, 700,000 shares of which were sold at $1.00 per share and 1,000,000 shares of which were sold at $1.20 per share. The applicants represent that these shares were purchased primarily by individual investors in the Atlanta area who were unrelated to JH Restaurants, Inc.

Subsequently, in January, 1985, JH Restaurants, Inc. completed a private placement offering of 3,500,000 shares of common stock at $.50 per share. Approximately 1,000,000 of these shares were purchased by an individual who is unrelated to JH Restaurants, Inc. Since January 31, 1985, JH Restaurants, Inc. has issued 1,744,413 shares of common stock at $.40 to $.60 per share. All of these shares have been issued to creditors to satisfy liabilities of JH Restaurants, Inc. The applicants state that no public offering of JH Restaurants, Inc. stock is currently contemplated.

5. In order to restore to the Plan the value of its original investment of $35,000 in the Partnership, the Employer proposes to purchase the Plan's 18,562 shares of JH Restaurants, Inc. stock for cash in the amount of $35,000, which is equivalent to $1.89 per share. No fees or commissions would be charged to the Plan with respect to the sale. The Trustees represent that if the aggregate proposed selling price of $35,000 exceeds the fair market value of the stock on the date of sale and the excess over fair market value is deemed to be an employer contribution, such contribution will not disqualify the Plan under section 415 of the Code.

6. The Trustees represent that the Plan's sale of the stock to the Employer would be appropriate for, protective of and in the best interest of the Plan and its participants and beneficiaries because the Plan will be able to invest the proceeds of the sale in investments producing a higher yield and/or more capital appreciation. In addition, the Trustees will be capable of reacting more effectively to market conditions since the proceeds will be invested in more liquid investments. Further, no fees or commissions will be charged to the Plan with respect to the sale.

7. In summary, the applicant represents that the proposed sale satisfies the statutory criteria under section 408(a) of the Act because (a) the

sale will be a one-time transaction for cash; (b) the Plan will be able to sell an investment which has declined in value and is not likely to appreciate in the near future; (c) the Plan will be able to reinvest the proceeds of the sale in more liquid and profitable investments; and (d) no fees or commissions will be paid by the Plan with respect to the sale.

For Further Information Contact: Katherine D. Lewis of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

Dixon-Merkle, P.C. Employees' Retirement Plan and Trust (the Plan) Located in Dearborn, Michigan

[Application No. D-6242]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of the section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale by the Plan of an improved parcel of real property (the Real Property) for the cash consideration of $130,000, to Drs. Karl Merkle and David W. Peters (Drs. Merkle and Peters), provided the sales price for the Real Property is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a defined contribution plan having five participants and total assets of $762,673 as of December 31, 1984. The trustees of the Plan, who are also Plan participants, are Dr. Merkle and Dr. Paul Nagy. Investment decisions for the Plan are made by Dr. Merkle.

2. Dixon-Merkle, P.C. (the Employer) is a professional corporation organized and existing under the laws of the State of Michigan and maintaining its principal offices at 530 North Telegraph Road, Dearborn, Michigan. The Employer is engaged in the medical specialty of family practice. It is principally owned by Drs. Merkle and Peters. Although Dr. Peters does not participate in the Plan, both he and Dr. Merkle serve as officers of the Employer.

3. On March 14, 1972, the Plan purchased a parcel of land, which is the location of the Employer's medical practice, from unrelated parties. The Real Property consists of a one story, 1,845 square foot medical clinic and the land situated thereunder. The facility has a side drive and limited parking in the rear. An adjacent parcel of land used for additional parking is co-owned by Dr. Merkle and Dr. Harry Morris (Dr. Morris). Dr. Morris is not a principal of the Employer or a participant in the Plan.

4. Contemporaneously with the acquisition of the Real Property, the Plan entered into a written lease (the Lease) with the Employer for a fifteen year term. The Lease is a triple net lease with a present monthly rental of $1,500. According to the exemption application, all rentals due under the Lease have been timely paid.[10] In addition, the Real Property is currently unencumbered.

5. The exemption application states that after the passage of the Act, Dr. Merkle was advised by the Plan's investment adviser, Reynolds Associates, Ltd., that the Lease would have been terminated no later than June 30, 1984 as it would then be considered a prohibited transaction. Dr. Merkle was also informed that he or the Employer could purchase the Real Property in the interim. By inadvertence, Dr. Merkle thought the deadline to change the leasing arrangements or ownership of the Real Property did not have to be accomplished until December 1, 1984. At the time, Dr. Merkle consulted with counsel for the Plan regarding the sale of the Real Property to the Employer. However, he was advised that he was too late to consummate the transaction under the transitional rules of section 414 of the Act.

6. Accordingly, an exemption is requested to allow the Plan to sell undivided one-half interests in the Real Property to Drs. Merkle and Peters for a cash purchase price as established by an independent appraisal. The Plan will incur no real estate commissions or fees in connection therewith.

In addition, the Employer represents that it will pay the Internal Revenue Service all applicable excise taxes due by reason of the past leasing of the Real Property within thirty days of the granting of the exemption. Further, the Employer represents that it will pay the Plan, within thirty days of the granting of the exemption, an amount equal to the difference between the rental actually paid to the Plan from July 1, 1984 until the date of the sale and the fair market rental value of the Real Property plus interest.

[10] The exemption application states that the Lease has satisfied the terms and conditions of section 414(c)(2) of the Act. However, the Department expresses no opinion on whether these provisions of the Act have been met.

7. In an apraisal report dated February 1, 1985, Mr. Lawrence R. Anderson (Mr. Anderson), M.A.I., S.R.P.A., placed the fair market value of the Real Property at $130,000 as of January 8, 1985. Mr. Anderson also determined that the Real Property had a net fair market rental value of $10.50 per square foot as of January 8, 1985.

In an addendum to the appraisal dated August 15, 1985, Mr. Anderson stated that at the time he initially appraised the Real Property, he was aware that an adjacent parking lot was jointly-owned by Drs. Merkle and Morris. However, he concluded that the proximity of the parking lot to the Real Property would not enhance the value of the Real Property. In his opinion, the value of the Real Property would remain at $130,000.

8. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Real Property will be sold at its fair market value as determined by an independent appraisal; (c) the Plan will not be required to pay any real estate commissions or fees in connection with the sale; and (d) the Employer will pay all applicable excise taxes due by reason of the continued leasing of the Real Property, including any deficient rent and interest, within thirty days of the granting of the exemption.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Minneapolis Radiology Associates, Ltd. Profit Sharing Plan (the Plan) Located in Minneapolis, Minneasota

[Application No. D-6249]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of the section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale of a parcel of improved real property (the Property) by the indiviually directed account (the Account) of Richard Tucker, M.D. (Dr. Tucker) in the Plan to Dr. Tucker, provided that the sales price is not less

than the fair market value of the Property on the date of sale.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with sixteen participants and total assets which exceed $1,000,000. The trustee of the Plan is Richfield Bank & Trust Company (the Trustee). The Plan is sponsored by Minneapolis Radiology Associates, Ltd. (the Employer). Dr. Tucker is no longer employed by the Employer, having retired in August, 1982, due to health problems. Dr. Tucker does not own any shares, hold any office, or serve as director, of the Employer. The Plan allows for participant direction of investments for segregated accounts. Dr. Tucker is authorized by the Plan to direct the investments of the Account. As of June 13, 1985, Dr. Tucker had net assets of approximately $225,367 in the Account.

2. The Property was purchased by the Account, at Dr. Tucker's direction, on November 29, 1984 from Merlin J. Van De Wege and Astride C. Van De Wege for $157,500.[11] The Property is one-half of a double home lcoated at 5303 Malibu Drive, Edina, Minnesota. The Account paid $104,718.29 in cash for the Property and assumed Mr. and Mrs. Van De Wege's obligations under a Contract for Deed with a principal balance of $52,781.71. The vendor's interest in the Contract for Deed was and is held by Harvey and Shirley Hanson. The applicant states that neither Mr. and Mrs. Van De Wege nor Harvey and Shirley Hanson are parties in interest with respect to the Plan, nor are they related in any way to Dr. Tucker, the Trustee, or the Employer.

3. The application states that Dr. Tucker directed the Account to purchase the Property intending to hold and later sell the Property at a profit. The Property has not been leased in order to avoid administrative difficulties connected with renting the Property and possible damage by tenants. However, contrary to Dr. Tucker's expectations, the fair market value of the Property has fallen below the purchase price paid by the Account. The Account advertised the Property for sale during May, 1985, but did not receive any satisfactory offers. The applicant states that as of June 5, 1985, the Account had paid a total of approximately $3800 in additional expenses incurred in connection with the Property, including insurance premiums, taxes, utilities and interest payments under the Contract for Deed. The Account also paid $726.29 in closing costs on the purchase of the Property.

4. The Property was appraised on June 13, 1985 by Howard Lawrence, M.A.I. (Mr. Lawrence), an independent real estate appraiser in Minneapolis, Minnesota, as having a fair market value of $155,000.

5. The application states that Dr. Tucker did not intend to acquire the Property for himself as a home or investment when the Account purchased the Property. Dr. Tucker had planned to move to Arizona and placed his own home on the market for sale. However, since the time of purchase of the Property by the Account, Dr. Tucker has experienced a worsening of his health problems stemming from brain surgery in 1979 and has decided to remain in the Minneapolis area in order to continue receiving medical treatment from his physicians. Therefore, Dr. Tucker desires to purchase the Property from the Account and proposes to pay the greater of:

(a) The price paid by the Account for the Property, plus all expenses paid by the Account in connection with the Property including closing costs, insurance premiums, taxes, utilities and interest payments under the Contract for Deed; or

(b) the appraised fair market value of the Property as determined by an updated appraisal to be made by Mr. Lawrence concurrently with the sale, plus all expenses paid by the Account in connection with the Property.

The purchase price would be paid by Dr. Tucker's assumption of the Account's obligations under the Contract for Deed and the payment of the balance of the purchase price in cash. The applicant represents that the terms of the proposed sale of the Property are more favorable to the Account than a sale to an unrelated party. If the Property were sold at its current appraised fair market value, the Account would suffer a loss in excess of $7000. However, if the Property is not sold, the Account will continue to incur expenses in relation to the Property.

6. The applicant states that no commissions, fees or other selling expenses will be paid by the Account with respect to the proposed sale.

7. In summary, the applicant represents that the transaction satisfies the criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Account will receive the greater of either the fair market value for the Property as determined by an independent, qualified appraiser, or the original purchase price paid by the Account; plus, in either case, the additional costs and expenses incurred by the Account in connection with the acquisition and holding of the Property; (c) the Account will not be required to pay any real estate fees or commissions in connection with the sale; and (d) Dr. Tucker is the only participant of the Plan to be affected by the transactin and he has determined that the proposed sale of the Property would be in the best interest of the Account.

Notice to Interested Persons: Because Dr. Tucker is the only participant in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register**.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certin other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the code, including statutory of administrative

[11] The Department is expressing no opinion as to whether the original acquisition of the Property by the Account was in violation of any provision of the Act.

exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 3rd day of October, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-23999 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-4901]

Withdrawal of Proposed Exemption; M.M. & P. Pension Plant et al.

Withdrawal of the Notice of Proposed Exemption involving the M.M & P. Maritime Advancement Training, Education and Safety Program (MATES Plan), M.M. & P. Health and Benefit Plan (Health Plan), M.M. & P. Vacation plan (Vacation Plan), and M.M. & P. Individual Retirement Account Plan (IRA Plan), (collectively the Plans), located in Linthicum Heights, Anne Arundel County, Maryland.

In the Federal Register dated April 24, 1984 (49 FR 17617), the Department of Labor (the Department) published a notice of pendency (the Notice) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The Notice concerned an application filed by the trustees (the Applicants) on behalf of the Plans and involved:

(1) Proposed cash purchase by the Pension Plan from the MATES Plan of a parcel of real property (the Land) and an office building (the Building) on the Land; (2) the subsequent leasing of space in the Building by the Pension Plan to the MATES Plan, the Health Plan, the Vacation Plan, the IRA Plan, the Joint Employment Committee (the Committee), and the International Organization of Masters, Mates and Pilots (the Union); and (3) effective December 1, 1983, the interim leasing of the Building and the Land by the MATES Plan to the Pension Plan, the Health Plan, the Vacation Plan, the IRA Plan, the Committee, and the Union; provided that the purchase price and rental rates are at fair market value.

By letter dated July 11, 1985, the Applicants' representative informed the Department that the Applicants wished to withdraw their request for exemptive relief.

Accordingly, the Department has reconsidered its earlier action and is hereby withdrawing its previously published Notice.

Signed at Washington, D.C., this 12th day of September, 1985

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-24001 Filed 10-7-85; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Request for Comments on a Grant Award to the Loyola University School of Law

AGENCY: Legal Services Corporation.

ACTION: The Legal Services Corporation (LSC) announces that it is awarding a grant of $4,000,000 to Loyola University School of Law. This grant is being awarded pursuant to Pub. L. 99-88, which provides such funds for the establishment of the Gillis W. Long Poverty Law Center at the Loyola University School of Law.

DATE: All comments and recommendations must be received by the Office of Field Services on or before November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Legal Services Corporation, Peter P. Broccoletti, Acting Director, Office of Field Services, 400 Virginia Avenue, SW., Washington, DC 20024-2751, (202) 863-1835.

SUPPLEMENTARY INFORMATION: The purpose of the grant is to fund the Gillis W. Long Poverty Law Center at the Loyola University School of Law in New Orleans, which will provide a legal clinic to supplement the civil legal services of the Legal Services Corporation grantees. Further, the Law Center will conduct continuing legal education courses and seminars to encourage and prepare practicing attorneys for pro bono services. Under the clinical program, no recipient shall receive legal services who would be disqualified by law or regulation from receiving such services from a Legal Services Corporation grantee.

Interested persons are also invited to submit written comments and/or recommendations concerning this grant action to Peter P. Broccoletti.

Dated: October 4, 1985.

James H. Wentzel,

President.

[FR Doc. 85-24205 Filed 10-7-85; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

State of Iowa; Staff Assessment of Proposed Agreement Between the NRC and the State of Iowa

Note.—This document was originally published in the issue of October 1, 1985 at 50 FR 40078. It is reprinted at the request of the Nuclear Regulatory Commission.

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Proposed Agreement with State of Iowa.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment the NRC staff assessment of a proposed agreement received from the Governor of the State of Iowa for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the program narrative, including the referenced appendices, appropriate State legislation and Iowa regulations, is available for public inspection in the Commission's public document room at 1717 H Street, NW., Washington, DC. Exemptions from the Commission's regulatory authority, which would implement this proposed agreement, have been published in the Federal Register and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATES: Comments must be received on or before October 31, 1985.

ADDRESSES: Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC. 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Monday through Friday. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:
Joel O. Lubenau, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301–492–9887.

SUPPLEMENTARY INFORMATION:
Assessment of Proposed Iowa Program to Regulate Certain Radioactive Materials Pursuant to section 274 of the Atomic Energy Act of the 1954, as amended.

The Commission has received a proposal from the Governor of Iowa for the State to enter into an agreement with the NRC whereby the NRC would relinquish and the State would assume certain regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be published four times in the **Federal Register.**

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulatory authority over agreement materials[1] when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. In a letter dated August 22, 1985, Governor Terry E. Branstad of the State of Iowa requested that the Commission enter into an agreement with the State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, and proposed that the agreement become effective on January 1, 1986. The Governor certified that the State of Iowa has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State of Iowa desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A and the narrative portion of the program description is shown in Appendix B.

The specific authority requested is for (1) byproduct material as defined in section 11e(1) of the Act, (2) source material and (3) special nuclear material in quantities not sufficient to form a critical mass. The State does not wish to assume authority over uranium milling activities nor the commercial disposal of low-level radioactive waste. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in these areas. The nine articles of the proposed agreement cover the following areas:

I. Lists the materials covered by the agreement
II. Lists the Commission's continued authority and responsibility for certain activities
III. Allows for future amendment of the agreement
IV. Allows for certain regulatory changes by the Commission
V. References the continued authority of the Commission for common defense and security for safeguards purposes
VI. Pledges the best efforts of the Commission and the State to achieve coordinated and compatible programs
VII. Recognizes reciprocity of licenses issued by the respective agencies
VIII. Sets forth criteria for termination or suspension of the agreement
IX. Specifies the effective date of the agreement

C. Section 136C, the Code, H.F. 2110 authorizes the State Department of Health to issue licenses to, and perform inspections of, users of radioactive materials under the proposed agreement and otherwise carry out a total radiation control program. Iowa radiation control regulations, Health Department (470) Chapters 38 to 41, adopted by the Iowa State Board of Health on May 8, 1985 under authority of Section 136C.3, The Code, provides standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. Pursuant to 470–39.53, the regulations are not applicable to agreement materials until the effective date of the agreement. The regulations provide for the State to license and inspect users of naturally-occurring and accelerator-produced radioactive materials.

D. The environmental radiation activities with which the Department has been involved in conjunction with the University of Iowa Hygienic Laboratory include a general environmental surveillance program and a radiological surveillance program for the Duane Arnold power reactor site under contract with NRC. The State has the capability of developing site specific environmental surveillance programs when needed and has authority to charge its licensees a fee to recover the costs of such programs.

The Department has also been involved in registration and inspection of x-ray uses since 1980 including restrictions on healing arts x-ray screening practices and involvement in the U.S. FDA studies such as the Dental Exposure Normalization Technique (DENT). In 1983, Iowa established minimum training standards for diagnostic radiographers.

II. NRC Staff Assessment of Proposed Iowa Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.[2]

Objectives

1. *Protection.* A State regulatory program shall be designed to protect the health and safety of the people against radiation hazards.

Based upon the analysis of the State's proposed regulatory program the staff believes the Iowa proposed regulatory program for agreement materials is adequately designed to protect the health and safety of the public against radiation hazards.

Radiation Protection Standards

2. *Standards.* The State regulatory program shall adopt a set of standards for protection against radiation which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

Statutory authority to formulate and promulgate rules for controlling exposure to sources of radiation is contained in section 136C, The Code. In accordance with that authority, the State adopted radiation control regulations on May 8, 1985 which include radiation protection standards which would apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass upon the effective date of an agreement between the State and the

[1] A. Byproduct materials as defined in 11e(1); B. Byproduct materials as defined in 11e(2); C. Source materials; and D. Special nuclear materials in quantities not sufficient to form a critical mass.

[2] NRC Statement of Policy published in the **Federal Register** January 23, 1981 (46 FR 7540–7546), a correction was published July 16, 1981 (46 FR 36969) and a revision of Criterion 9 published in the **Federal Register** July 21, 1983 (48 FR 33376).

Commission pursuant to section 274b of the Atomic Energy Act of 1954, as amended.

Reference: Iowa State Department of Health radiation control regulations 470–38 to 41.

3. *Uniformity in Radiation Standards.* It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity of maximum permissible doses and levels of radiation and concentrations of radioactivity, as fixed by 10 CFR Part 20 of the NRC regulations based on officially approved radiation protection guides.

Technical definitions and terminology contained in the Iowa Radiation Control Regulations including those related to units of measurement and radiation doses are uniform with those contained in 10 CFR Part 20.

Reference: Iowa 470–38.2, 39.2.

4. *Total Occupational Radiation Exposure.* The regulatory authority shall consider the total occupational radiation exposure of individuals, including that from sources which are not regulated by it.

The Iowa regulations cover all sources of radiation within the State's jurisdiction and provide for consideration of the total radiation exposure of individuals from all sources of radiation in the possession of a licensee or registrant.

Reference: Iowa 470–40.1, 40.5.

5. *Surveys, Monitoring.* Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

The Iowa requirements for surveys to evaluate potential exposures from sources of radiation and the personnel monitoring requirements are uniform with those contained in 10 CFR Part 20.

References: Iowa 470–40.8 and 40.9.

6. *Labels, Signs, Symbols.* It is desirable to achieve uniformity in labels, signs, and symbols, and the posting thereof. However, it is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products which are transferred from person to person.

The prescribed radiation labels, signs, and symbols are uniform with those contained in 10 CFR Parts 20, 30 thru 32 and 34.

The Iowa posting requirements are also uniform with those of Part 20.

References: Iowa 470–39.23, 39.25, 39.36, 39.40, 40.9, and 41.4.

7. *Instruction.* Persons working in or frequenting restricted areas shall be instructed with respect to the health risks associated with exposure to radioactive materials and in precautions to minimize exposure. Workers shall have the right to request regulatory authority inspections as per 10 CFR Part 19, § 19.16 and to be represented during inspections as specified in § 19.14 of 10 CFR Part 19.

The Iowa regulations contain requirements for instructions and notices to workers that are uniform with those of 10 CFR Part 19.

Reference: Iowa 470–40.21.

8. *Storage.* Licensed radioactive material in storage shall be secured against unauthorized removal.

The Iowa regulations contain a requirement for security of stored radioactive material.

Reference: Iowa 470–40.12.

9. *Radioactive Waste Disposal.* (a) Waste disposal by material users. The standards for the disposal of radioactive materials into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR Part 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (Section 151(a)(2), Pub. L. 97–425).

Iowa Radiation Control Regulations contain provisions relating to the disposal of radioactive materials into the air, water and sewer and burial in soil which are essentially uniform with those of 10 CFR Part 20. In a letter dated August 8, 1985 to NRC the Department committed to adopting certain clarifying amendments to their regulations to conform them more closely to 10 CFR Parts 20 and 61 and, in the interim, will impose license conditions to ensure uniformity with these Parts. Iowa, at this time, does not propose to regulate the commercial land disposal of low-level radioactive waste.

References: Iowa 470–40.7, 40.14 to 40.17, 40.19 and letter dated August 8, 1985 from J. Eure, Director, Environmental Health Section, Iowa Department of Health to J. Lubenau, NRC.

10. *Regulation Governing Shipment of Radioactive Materials.* The State shall to the extent of its jurisdiction promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues. State regulations regarding transportation of radioactve materials must be compatible with 10 CFR Part 71.

The Iowa regulations are uniform with those contained in NRC regulations 10 CFR Part 71.

References: Iowa 470–39.76 to 39.39.

11. *Records and Reports.* The State regulatory program shall require that holders and users of radioactive materials (a) maintain records covering personnel radiation exposures, radiation surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of the employee's exposure to radiation; (e) at request of an employee advise the employee of his or her annual radiation exposure; and (f) inform each employee in writing when the employee has received radiation exposure in excess of the prescribed limits.

The Iowa regulations require the following records and reports by licensees and registrants:

(a) Records covering personnel radiation exposures, radiation surveys, and disposals of materials.

(b) Records of receipt and transfer of materials.

(c) Reports concerning incidents involving radioactive materials.

(d) Reports to former employees of their radiation exposure.

(e) Reports to employees of their annual radiation exposure.

(f) Reports to employees of radiation exposure in excess of prescribed limits.

Reference: Iowa 470–38.4, 40.20, 40.21.

12. *Additional Requirements and Exemptions.* Consistent with the overall criteria here enumerated and to accommodate special cases and circumstances, the State regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety.

The Iowa Department of Health is authorized to impose upon any licensee or registrant, by rule, regulation, or order such requirements in addition to those established in the regulations as it deems appropriate or necessary to minimize danger to public health and safety or property.

Reference: Iowa 470–38.7.

The Department may also grant such exemptions from the requirements of the regulations as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

Reference: Iowa 470–38.3.

Prior Evaluation of Uses of Radioactive Materials

13. *Prior Evaluation of Hazards and Uses, Exceptions.* In the present state of Knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of the possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing board use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the use of radioactive materials, the Iowa Department of Health will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: Iowa 470–39.1 to 39.3, 39.28 to 39.56; Iowa Program Description, "Licensing and Registration."

Provision is made for the issuance of general licenses for byproduct, source and special nuclear materials in situations where prior evaluation of the licensee's qualifications, facilities, equipment and procedures is not required. The regulations grant general licenses under the same circumstances as those under which general licenses are granted in the Commission's regulations.

References: Iowa 470–30.12 to 39.26, 39.57, 39.58, 39.79 to 39.85.

14. *Evaluation Criteria.* In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal to use agreement materials, the Iowa Department of Health will determine that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the prupose requested in accordance with the regulations in such a manner as to minimize danger to public health and safety or property;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property; and

(3) The issuance of the license will not be inimical to the health and safety of the public.

Other special requirements for the issuance of specific licenses are contained in the regulations.

References: Iowa 470–39.30 to 39.45.

15. *Human Use.* The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.

The Iowa regulations require that the use of radioactive material (including sealed sources) on or in humans shall be by a physician having substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients.

Reference: Iowa 470–39.31.

Inspection

16. *Purpose, Frequency.* The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Iowa materials licensees will be subject to inspection by the Department of Health. Upon instruction from the Department, licensees shall perform or permit the Department to perform such reasonable tests and surveys as the Department deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent as inspections of similar licenses by NRC.

References: Iowa 470–38.5 and 38.6; Iowa Program Description, "Inspection Program."

17. *Inspections Compulsory.* Licensees shall be under obligation by law to provide access to inspectors.

Iowa regulations state that licensees shall afford the Department at all reasonable times opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

Reference: Iowa 470–38.5.

18. *Notification of Results of Inspection.* Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

Following Department inspections, each licensee will be notified in writing of the results of the inspection. The letters and written notices indicate if the licensee is in compliance and if not, list the areas of noncompliance.

Reference: Iowa Program Description, "Compliance and Enforcement."

Enforcement

19. *Enforcement.* Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials; the obtaining of injunctive relief; and the imposing of civil or criminal penalties.

The Iowa Department of Health is equipped with the necessary powers for prompt enforcement of the regulations. Where conditions exist that create a clear preseence of a hazard to the public health that requires immediate action to protect human health and safety, the Department may issue orders to reduce, discontinue or eliminate such conditions. The Department actions mayalso include impounding of radioactive material, imposition of a civil penalty, revocation of a license, and requesting County Attorney or Attorney General to seek injunctions and convictions for criminal violations.

References: Iowa 470–38.7, 38.8, 38.9, 38.11; Iowa Program Description, "Compliance and Enforcement."

Personnel

20. *Qualifications of Regulatory and Inspection Personnel.* The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be evaluated and inspected.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. The person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These people should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, the trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories, proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the difference disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

a. Number of Personnel

There are approximately 170 NRC specific licenses in the State of Iowa. Under the proposed agreement, the State would assume responsibility for about 155 of these licenses. The Department's Radiological Health Program is currently staffed with six professional persons. Five individuals will be assigned line and supervisory duties in the materials program. We estimate the State will need to apply between 1.6 to 2.1 staff-years of effort to the program. The present personnel together with their assigned responsibilities are as follows:

John A. Eure: Director, Environmental Health Section. Responsible for administration and supervision of Environmental Health Section.

Donald A. Flater: Coordinator, Radiological Health Program. Responsible for administration and supervision of the radiological health program.

David Russell Myers: Environmental Specialist III. Supervises field inspection staff and conducts inspections.

Bruce W. Hokel: Environmental Specialist II. Currently conducts inspections and under consideration as lead person for licensing.

Richard L. Welke: Environmental Specialist I. Currently conducts inspections.

Paul E. Koehn: Environmental Specialist I. Currently in training.

Total personnel time devoted to radioactive materials is expected to be at least 2 person-years.

b. Training

The academic and specialized short course training for those persons involved in the administration, licensing and inspection of radioactive materials is shown below.

Donald A. Flater—B.S. Radiological Sciences and Administration, George Washington University.

Transportation of Radioactive Materials, November 1984, U.S. Nuclear Regulatory Commission.

Advanced Medical Imaging Technology Workshop, September 1984, Conference of Radiation Control Program Directors, Inc.

Inspection Procedures, July 1984, U.S. Nuclear Regulatory Commission.

Principles of Epidemiology, March, 1984, Centers for Disease Control.

Applied Epidemiology, February 1984, Centers for Disease Control and Iowa State Department of Health.

Orientation Course in Licensing Practices and Procedures for State Regulatory Personnel, September 1983, U.S. Nuclear Regulatory Commission.

Radiological Defense Officer Course, June 1983, Iowa Office of Disaster Services.

Radiological Monitoring Home Study Course, May 1983, Federal Emergency Management Agency.

Medical Use of Radionuclides, April 1983, U.S. Nuclear Regulatory Commission.

Radiological Emergency Planning Course, March 1981, Federal Emergency Management Agency.

Radiological Emergency Response Operations for Radiological Emergency Response Teams, January 1981, U.S. Nuclear Regulatory Commission.

Dose Projection Accident Assessment and Protective Action Decision Making for Radiological Emergency Response, March 1980, U.S. Nuclear Regulatory Commission.

David Russell Myers—B.S. Biology, Grandview College.

Computed Tomography Dosimetry Training Course, May 1985, University of Missouri, Kansas City School of Medicine, Food and Drug Administration Center for Medical Devices and Radiological Health.

FDA Regional Training, September 1984, Mayo Clinic.

Inspection Procedures, July 1984, U.S. Nuclear Regulatory Commission.

Health Physics and Radioactive Materials, June 1984, Oak Ridge Associated Universities.

Medical Use of Radionuclides, June 1984, Oak Ridge Associated Universities.

Principles of Epidemiology, March 1984, Centers for Disease Control and Iowa State Department of Health.

Applied Epidemiology, February 1984, Centers for Disease Control and Iowa State Department of Health.

Emergency Management Institute Radiological Accident Assessment Course, August 1982, National Emergency Training Center.

Radiological Defense Officer Course, May 1982, Federal Emergency Management Agency.

Radiological Emergency Response Operations Course, January 1981, U.S. Nuclear Regulatory Commission.

Diagnostic X-Ray Survey Training Program, June 1980, U.S. Army Academy of Health Sciences.

Bruce W. Hokel—B.S., Fisheries and Wildlife, Iowa State University.

Introduction to Licensing Practices and Procedures, U.S. Nuclear Regulatory Commission.

Nuclear Transportation for State Regulatory Personnel, U.S. Nuclear Regulatory Commission.

Principles of Licensing, one week on-the-job training with staff of NRC, Region III.

Safety Aspects of Industrial Radiography for State Regulatory Personnel, U.S. Nuclear Regulatory Commission.

Orientation Course in Licensing Practices, U.S. Nuclear Regulatory Commission.

Health Physics and Radiation Protection, Oak Ridge Associated Universities.

Basic Radiological Health, University of Texas Health Center.

X-Ray Compliance Testing, Fort Sam Houston.

Radiological Incidents Emergency Response, Nuclear Test Site—Mercury, Nevada.

Principles of Epidemiology, Centers for Disease Control.

Applied Epidemiology, Centers for Disease Control.

Richard L. Welke—B.A. Biology, University of Minnesota.

Medical Use of Radionuclides, June 1985, U.S. Nuclear Regulatory Commission.

FEMA Nuclear Power Plant Off-Site Radiological Accident Assessment Course, November 1985.

FDA Training Course for Diagnostic X-Ray Compliance Surveys, September 1984.

NIOSH Non-Ionizing-Ionizing Radiation 583/584, April 1984.

Paul E. Koehn—B.S. Science, Upper Iowa University.

Fundamental Course for Radiological Response Teams, March 1985.

Fundamental Course for Radiological Monitors, March 1985.

c. *Experience*

Since receiving a Bachelor of Science in Sanitary Engineering from the University of Illinois in February, 1957, Mr. Eure has been actively engaged as an Environmental Health Engineer in the field of public health. His experience has been primarily in the areas of radiological health and water supply and pollution control from a technical, administrative and supervisory aspect.

In July, 1960, he was accepted into the Regular Corps of the U.S. Public Health Service and was reassigned to the University of Texas for graduate training in Sanitary Engineering. In September of 1961, he received a Master of Science Degree in Sanitary Engineering with a minor in Bacteriology and was subsequently assigned to the Occupational Health Division of the Texas Department of Health as a resident in radiological health.

In March, 1964, he was assigned to the New York City Office of Radiation Control. A number of potentially hazardous situations were investigated during this assignment including lost radioactivity sources, sale of radium pills for internal use and high energy accelerator accident involving excessive exposure to employees. During the course of another occupational health investigation it was determined that television receivers intended for household use were emitting high levels of x-radiation. This finding and subsequent investigation efforts identified the need for Federal control of Electronic Products and resulted in Congressional enactment of the Radiation Control for Health and Safety Act of 1968—Pub. L. 90-602.

In July 1968, he was assigned to the Bureau of Radiological Health headquarters in Rockville, Maryland. Here he was engaged in emergency planning activities and developed a model plan which has served as a guide for the development of many State emergency plans, engaged in regulatory activities associated with the Radiation Control for Health and Safety Act, and was assigned successively more responsible positions and management of a national program of surveillance of electronic products.

In July, 1979, he retired from the USPHS, and was appointed as the Director of Radiological Health at the Iowa State Department of Health. Here he established a comprehensive program in Radiological Health which is now fully operational. In October, 1981, he was appointed as Director of Environmental Health within this Department and assumed the responsibility of administering programs in public health engineering including sanitation, consumer safety and work related disease in addition to radiation protection. He is currently engaged in expanding the work related disease functions of his section.

His professional certifications include Licensed Professional Engineer-Texas, Diplomate American Academy of Environmental Engineers and Fellow of the American Public Health Association.

Mr. Flater has been employed by the Department of Health since 1980 in increasingly reasonable positions. Prior to coming to Iowa, he was employed by the FDA Bureau of Radiological Health where he received two "Commendable Service Awards."

Mr. Myers has been with the Iowa radiation control program since 1980.

Mr. Hokel has been with the program since 1983.

Mr. Koehn joined the program in February, 1985.

Reference: Iowa Program Description, Apendix IV, B.

21. *Conditions Applicable to Special Nuclear Material, Source Material and Tritium.* Nothing in the State's regulatory program shall interfere with the duties imposed on the holder of the materials by the NRC, for example, the duty to report to the NRC, on NRC

prescribed forms (1) transfers of special nuclear material, source material and tritium and (2) periodic inventory data.

The State's regulations do not prohibit or interfere with the duties imposed by the NRC on holders of special nuclear material owned by the U.S. Department of Energy or licensed by NRC, such as the responsibility of licensees to supply to the NRC reports of transfer and inventory.

Reference: Iowa 470–38.1 and 38.3.

22. *Special Nuclear Material Defined.* The definition of special nuclear material in quantities not sufficient to form a critical mass, as contained in the Iowa Radiation Control Regulations, is uniform with the definition in 10 CFR Part 150.

Reference: Iowa 470–38.2, Definition of Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass.

Administration

23. *Fair and Impartial Administration.* The Iowa statute and regulations provide for administrative and judicial review of actions taken by the Department of Health.

Reference: Section 136C, The Code, Iowa 470–38.9, 38.12, 39.56, 40.21.

24. *State Agency Designation.* The Iowa Department of Health has been designated as the State's radiation control agency.

References: Section 136, The Code.

25. *Existing NRC Licenses and Pending Applications.* The Department has made provision to continue NRC licenses in effect temporarily after the transfer of jurisdiction. Such licenses will expire either 90 days after receipt from the Department of a notice of expiration or on the date of expiration specified in the Federal license, whichever is earlier.

Reference: Iowa 470–39.53.

26. *Relations with Federal Government and Other States.* There should be an interchange of Federal and State information and assistance in connection with the issuance of regulations and licenses or authorizations, inspection of licensees, reporting of incidents and violations, and training and education problems.

The proposed agreement declares that the State will use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of like materials.

Reference: Governor Branstad's letter dated August 26, 1985, Proposed Agreement between the State of Iowa and the Nuclear Regulatory Commission, Article VI.

27. *Coverage, Amendments, Reciprocity.* The proposed Iowa agreement provides for the assumption of regulatory authority over the following categories of materials within the State:

(a) Byproduct materials, as defined by Section 11e(1) of the Atomic Energy Act, as amended.

(b) Source materials.

(c) Special nuclear materials in quantities not sufficient to form a critical mass.

Reference: Proposed Agreement, Article I.

Provision has been made by Iowa for the reciprocal recognition of licenses to permit activities within Iowa of persons licensed by other jurisdictions. This reciprocity is like that granted under 10 CFR Part 150.

Reference: Iowa 470–39.57.

28. *NRC and Department of Energy Contractors.* The State's regulations provide that certain NRC and DOE contractors or subcontractors are exempt from the State's requirements for licensing and registration of sources of radiation which such persons receive, possess, use, transfer, or acquire.

Reference: Iowa 470–38.3.

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states:

"The Commission shall enter into an agreement under subsection b of this section with any State if:

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) The Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed amendment."

The Staff has concluded that the State of Iowa meets the requirements of section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed agreement. Since the State is not seeking authority over uranium milling activities, subsection o. is not applicable to the proposed Iowa agreement.

Dated at Bethesda, Maryland, this 24th day of September 1985.

For the U.S. Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

Appendix A

Proposed Agreement Between the United States Nuclear Regulatory Commission and the State of Iowa for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

WHEREAS, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to byproduct materials as defined in sections 11e. (1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

WHEREAS, The Governor of the State of Iowa is authorized under Chapter 136C, Code of Iowa, to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of Iowa certified on ———, 1985, that the State of Iowa (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

WHEREAS, The Commission found on ———, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

WHEREAS, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards

of radiation will be coordinated and compatible; and

WHEREAS, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

WHEREAS, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;

E. The land disposal of source, byproduct and special nuclear material received from other persons; and

F. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

This Agreement may be amended, upon application by the State and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E or F, whereby the State can exert regulatory control over the materials stated herein.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulations, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss of diversion of special nuclear material.

Article VI

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection agains hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules, and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the material listed in Article I licensed by the other party of by an Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j. of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

Article IX

This Agreement shall become effective on ———, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Washington, District of Columbia, in triplicate, this — day of ———, 1986.

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino, *Chairman.*

Done at Des Moines, Iowa, in triplicate, this —— day of ———, 1985.

For the State of Iowa.

Terry E. Branstad, *Governor.*

Appendix B—The Iowa Radiation Control Program

Foreword

The State of Iowa, while recognizing that the scientific medical and industrial usage of atomic energy can be beneficial to its citizens, is also cognizant of the hazards inherent to ionizing radiation. With these hazards in mind, and considering that the State is committed to attain the highest practicable degree of protection for the public health from the harmful effects of all types of radiation, the second session of the 70th Iowa General Assembly (1984) enacted H.F. 2110 which is an act relating to the regulation of radiation machines and radiation material.

Section 274 of the Atomic Energy Act of 1954, as amended, authorizes the United States Nuclear Regulatory Commission (NRC) to enter into an agreement with the Governor of a state, for purposes of enabling that state to

assume regulatory responsibility for licensing and regulatory control of byproduct, source and less than critical quantities of special nuclear material.

Section 136C.11 of 1984 Iowa Act, H.F. 2110, authorizes the Governor, on behalf of the Iowa State Department of Health (ISDH), Division of Disease Prevention, Environmental Health Section, Radiological Health Program, to enter into an agreement with the NRC. This agreement would provide for the discontinuance of certain responsibilities of the NRC relating to ionizing radiation and the assumption of such responsibilities by the State. A copy of the subject legislation is contained in Appendix I.D.

Radiation Protection in Iowa

Prior to 1979 there was no comprehensive regulation of x-ray or radium within the State of Iowa. Enactment of legislation entitled, "Radiation Emitting Equipment," which became effective January 1, 1979, enabled the ISDH to assure the safe installation, operation, and use of radiation emitting equipment through the process of rulemaking, registration, and inspection. Radiation emitting equipment includes sources of ionizing radiation, such as x-ray machines, accelerators, radium and other radioactive material not under the jurisdiction of the NRC.

In implementing this law, the ISDH established a radiation control program in July 1979 and promulgated rules which became effective July 1, 1980. Although Iowa has made a belated appearance on the radiation control regulatory scene, it has been able to profit from the knowledge gained by other Federal, state, and local programs who have been actively engaged in this activity for many years. In particular, the rules which Iowa adopted were directly extracted from those recommended by the National Conference of Radiation Control Program Directors, Inc., and reflect several decades of experience by other radiation control programs. These rules basically address safety requirements associated with equipment, but also include stipulations regarding maximum exposure levels, operating procedures, safety instructions, warnings, and personnel and patient protection.

Registration and Inspection

On July 1, 1980, the Environmental Health Section's Radiological Health Program (RHP) initiated its registration program for equipment. As of January 1, 1984, approximately 2400 possessors of almost 5000 healing arts x-ray machines have registered their equipment with the Department. This number includes all healing arts users including hospitals, educational institutions, industries, and state and local agencies. In addition, there are approximately 80 facilities employing non-healing arts x-ray and 20 possessors, of radium registered as are the possessors of 15 particle accelerators. Ninety percent of the registered facilities fall into the healing arts categories.

In addition to registration, the RHP also is conducting comprehensive inspections throughout the State. The radiation emitting equipment inspected to date almost entirely consists of diagnostic x-ray machines employed in the healing arts. As of April 1, 1985, the RHP has inspected over 47 percent of the x-ray tubes and two radium users. Although a wide variety of units were inspected, including newly installed equipment, major emphasis was given to equipment which might pose the greatest risk to public health either because of its antiquity or improper use. Locations of the units and information used in prioritizing were obtained from the registration program.

Approximately 17 percent of the units inspected thus far have been found to possess major items of non-compliance such as the absence of a means to limit the useful beam of the x-ray to the portion of the patient's body which is of clinical interest or the absence of an adequate means of protecting the operator from radiation exposure. An additional 67 percent of the units inspected were found to not conform with aspects of the rules of lesser public health concern. In most cases these minor non-compliances can be rectified by establishment of safety procedures and other instructional guidance to the operator or by adjustment and calibration of equipment. All non-compliance equipment has either been corrected or is in the process of being corrected.

Special Provisions

The 1979 Iowa law and subsequent rules, while diligently following the pathway blazed by other states, does incorporate several new provisions not embarked on by most of the other state programs. These new avenues toward reducing radiation exposure involve the following areas:

(1) Restricting healing arts screening practices;

(2) Establishing operator training requirements;

(3) Maintaining human exposure to radiation at levels which are as low as reasonably achievable; and

(4) Funding a radiation control program from registration/inspection fees paid by possessors of radiation emitting equipment.

Healing Arts Screening

Healing arts screening can be defined as the intentional exposure of individuals to x-ray for diagnostic purposes without the specific and individual order of a licensed practitioner of the healing arts. The Iowa Administrative Code only permits that such screening practices be conducted with the approval of the ISDH. Until the promulgation of these rules there was no legal restriction against the indiscriminate x-raying of persons in the State without involving a licensed practitioner. A number of large industrial employers were regularly hiring out-of-state mobile x-ray services to conduct annual chest x-ray examinations which were in some cases required by the employer or in one instance an employee benefit included in the labor contract. The degree of scrutiny given to analyzing the x-ray films obtained from these screening practices or of assuring the provision of the diagnostic information retrieved from the individuals' personal physicians is highly suspect. Implementation of these regulatory provisions has significantly decreased the observed instances of unwarranted healing arts screening.

These rules are intended to minimize, if not preclude, the screening which is conducted randomly and arbitrarily, and without appropriate pre-selection. Such pre-selection would include the identification of positive reactors to tuberculin skin tests, or other individuals who have a demonstrated increased risk to disease for which x-ray diagnosis is appropriate. For instance, ISDH approval can be and has been justified for chest x-ray screening of workers exposed to asbestos or silicon dusts.

X-ray examination at the discretion and prerogative of an examining licensed practitioner who needs such radiographic information for diagnostic purposes would not, of course, be healing arts screening and, therefore, not subject to restriction. This requirement would hopefully serve to reduce unnecessary x-ray exposure to the public by reducing the number of x-rays taken for purposes of legal liability, insurance claims, workman's compensation, or otherwise where the probability of receiving healing arts benefits is extremely remote.

Operator Training Requirements

January 12, 1983, is the effective date for the State "Minimum Training

Standards for Diagnostic Radiographers" (470–42.1(136C)). This rule applies to operators of diagnostic x-ray equipment employed in the healing arts other than dentistry or veterinary medicine. Licensed practitioners in medicine, osteopathy, chiropractic or podiatry also are not covered under the rules. The standard establishes training requirements for two categories of diagnostic radiographers, General and Limited.

General diagnostic radiographers are those who may apply x-ray to any portion of the human body to obtain a radiograph. Successful completion of a two-year training program identical to that which is necessary to obtain national certification is required for the General category.

The Limited category would include those individuals who only radiograph specific portions of the human body, such as chests, extremities or in the practice of chiropractic or podiatry. The training programs for Limited diagnostic radiographers must be specifically recognized by the ISDH and are not expected to exceed approximately 80 hours total class time.

The Conditional diagnostic radiographer category would be made available only by special exemption from these rules and would be temporary in nature. Typically such an exemption may be provided to afford a short, but reasonable period of time, for an individual to commence an acceptable training program. It is difficult to conceive of a situation in which a long-term exemption permitting a Conditional diagnostic radiographer could be justified. Hopefully, this exemption will enable the timely training of operators without undue interference with the provision of healing arts services.

As Low As Reasonably Achievable

As an adjunct to its compliance program, the ISDH is participating in a radiological health initiative with the Food and Drug Administration's (FDA) Bureau of Radiological Health by disseminating educational material on unnecessary radiation exposure in the healing arts. This information has been provided to practitioners and other healing arts facilities for distribution to patients.

This program involves the distribution of consumer information packets to all types of healing arts facilities including medical doctors, osteopathic doctors, chiropractors, dentists, hospitals, clinics, and numerous specialty type facilities such as podiatry, gynecology, urology, internal medicine, neurology and surgery. The program is scheduled to continue indefinitely with radiation inspectors and other field personnel distributing the packets. The information being disseminated is not new. It has long been recognized in the field of radiation protection. The new aspect of this program is that it emphasizes the role of the consumer in protection effects.

Since this program so very directly relates to diagnostic x-rays, a valuable tool of the healing arts, it seems only appropriate that dissemination of this information be closely associated with healing arts facilities.

The ISDH also is cooperating with the FDA in its "Dental Exposure Normalization Technique"

This activity is primarily directed towards reducing patient exposure through quality assurance programs at dental facilities. The Iowa Dental Association has expressed its support of this program and is actively nurturing cooperation within the dental community.

Further emphasis towards encouraging reduction in patient exposure from medical x-ray procedures through voluntary quality assurance program emphasis is contemplated for the future. Physical demonstration of financial, as well as patient exposure savings, is expected to be an effective method of obtaining cooperation from the community.

The activities of the RHP are supported, to a large degree, from fees paid by registrants of radiation emitting equipment. This method of fiscal support is based on the statutory requirement for fees in amounts sufficient to defray the cost of administering this program. The apportionment of fees approximates as closely as possible the ISDH resources necessary to administer this program in relation to each registrant. In developing the fee, we attemped to maintain consistency with fees other states were charging for equipment as well as the method employed in assessing these fees. The fee schedule as it now exists is our best estimate of what is needed to defray the cost of this regulatory program. The variation in the fees reflects differences in equipment complexity and potential public health impact moderated by an equalizing tendency of an overall registration program. The person having legal possession of radiation emitting equipment is considered the registrant of that equipment and the person responsible for paying the fee. Fees range from $20.00 for an individual industrial x-ray unit to a maximum of $250.00 for facilities possessing 16 or more medical x-ray machines.

Other Activities

Basically the Iowa RHP is similar to those being implemented in most other states, with the slight exception of the features described above. Currently, major emphasis is being given to reducing exposure from diagnostic x-ray because of its overall contribution to that total populations's exposure from man-made radiation sources.

In addition to fulfilling its responsibilities under the Radiation Emitting Equipment Act, the Agency also serves to provide State government with radiological health expertise, particularly in the event of nuclear emergencies. This activity involves consulting with other agencies on such subjects as transportation of radioactive material, low-level radioactive waste disposal, radioactive contamination, protective action guides for radioactively contaminated agriculture products and medical radiological response. In the unlikely event of a nuclear emergency in Iowa, personnel from the Environmental Health Section would report to the State Emergency Operations Center and primarily perform the following functions:

1. Receive and interpret data regarding radioactivity releases to the environment or the potential for such releases;

2. Perform calculations to ascertain the resultant levels of radioactivity affecting persons;

3. Evaluate the impact of these radioactivity levels of the public health; and

4. Translate this health physics evaluation to the decision makers and assist them in making protective action decisions.

In addition to this formalized response, the agency also provides consultative and training services to the public and regulated sectors relating to radiation safety. Investigations of complaints, minor accidents and suspected radiation problems are conducted on request as staff and resource limitations permit.

New Legislation

The second session of the 70th Iowa General Assembly (1984) passed H.F. 2110 (Appendix I,D). This legislation provides the authority for the Governor to enter into an agreement for the assumption of certain licensing and regulatory functions of the NRC. Rules which will facilitate the transition of authority from the NRC to the State radiation control group have been promulgated. We are aware of the need to periodically update rules to maintain

compatibility. Work is underway to address appropriate revisions of the current rules. Draft rule changes will be submitted to NRC for review and comment.

Organization, Functions and Responsibility

The 18th General Assembly of Iowa established a State Board of Health in March 1880. The purpose of the Board was to provide for collecting vital statistics, to assign certain duties to local boards of health, and to punish neglect of duties. The Board consisted of nine members which included the State Attorney General, one civil engineer, and several physicians.

The State Board of Health and State Department of Health first appeared in the Iowa Code in 1897. The current legislation for this Board and Department is:

1. Chapter 136, The Code, stipulates that the Board is the policy making body for the Department of Health having powers and duties to:

a. Consider and study the entire field of legislation and administration concerning public health, hygiene and sanitation.

b. Advise the Department relative to:

i. The causes of disease and epidemics and the effect of locality, employment and living conditions upon public health

ii. The sanitary conditions in the educational, charitable, correction and penal institutions in the State

iii. Communicable and infectious disease including zoonotic diseases, quarantine and isolation, venereal diseases, antitoxins and vaccines, housing and vital statistics

c. Establish policies governing the performance of the Department in the discharge of any duties imposed on it by law.

d. Establish policies for the guidance of the Commissioner in the discharge of his duties.

e. Investigate the conduct of the work of the Department and for this purpose it shall have access at any time to all books, papers, documents and records of the Department.

f. Advise or make recommendations to the Governor or General Assembly relative to public health, hygiene and sanitation.

g. Adopt, promulgate, amend and repeal rules and regulations consistent with law for the protection of public health and for the guidance of the Department. All rules which have been or are hereafter adopted by the Department shall be subject to approval by the Board.

2. Chapter 135, The Code, stipulates that the Commissioner of Public Health is the head of the State Department of Health having the power and duties to:

a. Exercise general supervision over the public health, promote public hygiene and sanitation and, unless otherwise provided, enforce the laws relating to same.

b. Conduct campaigns for the people in hygiene and sanitation.

c. Issue monthly health bulletins containing fundamental health principles and other data deemed of public interest.

d. Make investigations and surveys with respect to the causes of disease and epidemics and the effect of locality, employment, and living conditions on the public health.

e. Make inspections of the sanitary conditions in the educational, charitable, correctional, and penal institutions in the State.

f. Make inspections of the sanitary conditions in any locality of the State upon written petition of five or more citizens from said locality and issue directions for the improvement of the same which shall be executed by the local board.

g. Establish, publish, and enforce a code of rules governing the installation of plumbing in cities.

h. Exercise general supervision of the administration of the housing law and give aid to the local authorization in the enforcement of the same.

i. Enforce the law relative to the "Practice of Certain Professions Affecting the Public Health."

j. Establish and maintain such divisions in the Department as are necessary for the proper enforcement of the laws administered by it including a division on contagious and infectious disease, a division of venereal disease, a division of vital statistics and a division of examinations and licenses; but the various services of the Department shall be so consolidated as to eliminate unnecessary personnel and make possible the carrying on of the functions of the Department under the most economical methods.

k. Establish, publish and enforce rules not inconsistent with law for the enforcement of the provisions of this title and for the enforcement of the various laws, the administration and supervision of which are imposed upon the Department.

l. Establish standards for issuing permits and exercise control over the distribution of venereal disease prophylactics distributed by methods not under the direct supervision of a licensed physician under Chapters 148, 150 or 150A or a pharmacist license under 147. Any person selling, offering for sale or giving away any venereal disease prophylatic in violation of the standards established by the Department shall be fined not exceeding five hundred dollars and the Department shall revoke this permit.

m. Administer the statewide public health nursing and homemaker-home health aide programs by approving grants of state funds to the local boards of health and county boards of supervisors and by providing guidelines for the approval of the grants and allocations of the State funds.

The Department has two assistants to the Commissioner who are responsible for (1) Central Administation and Professional Licensure, and (2) Health Planning and Development. There are also four division directors responsible for (1) Health Facilities, (2) Disease Prevention, (3) Personal and Family Health, and (4) Community Health. A chart showing the present organization of the Department of Health is contained in Appendix IIA.

Funding for the Department is both State and Federal. Federal Block Grants are used to fund many of the Department's programs. Funds for the RHP are 19 percent Federal contract money, 40 percent from registration fees and 41 percent state funds.

Although our legislation to regulate radiation producing machines and radioactive materials does not mandate the appointment of an advisory committee, such a committee has been appointed by the Commissioner of Health and is called the Ad Hoc Committee on Rules for Radiation Emitting Equipment. The current committee is made up of 20 individuals representing engineering, diagnostic radiography, nuclear medicine, dentistry, veterinary medicine, chiropractic, podiatry, manufacturers, industry, allied health organizations and public interest groups. Appendix III is a list of the membership of the present committee. This committee's responsibilities are to act as a techincal resource and a review mechanism for rules promulgated by the Department. The committee is strictly advisory and final decisions are reserved for the Commissioner based on staff recommendations. Any conflict of interest on the part of the advisory committee would be taken into consideration in the staff review. The RHP of the Environmental Health Section has the authority to regulate the use of all sources of ionizing radiation, except those it may exempt or are under the jurisdiction of the Federal government. A chart showing the

organization of the Environmental Health Section is shown in Appendix IIB.

All members of the RHP staff have experience in health physics and are in the process of receiving specialized training relating to radioactive materials. Professional staff including both new and existing personnel will continue attending NRC training courses as they become available to attain and maintain a high level of technical competency. Responsibilities, background and experience of radiation control personnel are given in Appendix IV.

The RHP is within the Environmental Health Section of the Division of Disease Prevention. The Section Director is responsible for signing licenses and overall general supervision of the Program. The Coordinator of the RHP will be responsible for supervising the review of license applications and the justification and writing of all licenses. This individual will also review all inspection reports and be responsible for corresponding with licensees to advise them of items of non-compliance found during inspections and eliciting compliance. The Coordinator will spend one-third of a person-year on agreement state program activities. A senior staff member of the RHP will be responsible for conducting license application review and preparation of licenses. He will have lead responsibility for inspection of licensees and investigation of incidents pertaining to radioactive materials. This staff person will also be an integral part of all emergency response efforts. It is anticipated that a major portion of this individual's time will be spent on the agreement state program. Prior to consummation of the agreement a position will be estabished to provide secretarial support for this program. It is also anticipated that the RHP professional staff will be trained and used in the radioactive materials program to do routine inspections. It is expected that the total personnel time devoted to the radioactive materials program will be at least two-person-years.

Within Iowa the Departments of Health, Water, Air and Waste Management, Transportation and the Bureau of Labor also have authority regarding radioactive materials. To avoid duplication of effort, promote coordiation of radiation protection activities and assure uniform regulation and timely investigation of all potentially hazardous situations resulting from radioactive material, appropriate interagency agreements are necessary. The Iowa Code (Appendix IB) permits state and local governments in Iowa to make efficient use of their powers by enabling them to provide joint services and facilitate with other agencies and to cooperate in other ways of mutual advantage. To consolidate the radiological health activities the Iowa State Department of Health has entered into 28E Agreements with the Department of Water, Air and Waste Management, the Department of Transportation and the Bureau of Labor. Appendix IB.1, 2 and 3 contains copies of the subject legislation and a copy of each of the 28E agreements.

Scope of Activities

The RHP administers the regulatory program associated with licensing of radio-active materials and registration of radiation machines, special projects and emergency response. Chapter 136C, The Code, (Attachment I, D) outlines the Department's duties. General laboratory services for the State are provided by the University Hygienic Laboratory (UHL) at the University of Iowa, Iowa City. Laboratory analysis needed by the RHP would be provided by the UHL through a contractual agreement to be established prior to the signing of the NRC agreement. Also, as part of this contractual agreement we will make provision to obtain environmental surveillance data generated by UHL.

Base on a review of NRC licensees in Iowa it would appear that there is not an immediate need for the RHP to have environmental surveillance capabilities. As we progress into the agreement state program, should the need arise, we will take whatever action is necessary to verify environmental surveillance data provided by a licensee or to conduct environmental surveillance activities to determine if a public health problem exists and to determine the extent of such a problem.

Within Iowa there are 5,251 registered radiation machine tubes which includes 2,752 dental tubes, 1,822 medical tubes, 398 chiropractic tubes, 68 podiatry tubes, and 195 tubes used for non-healing arts purposes. These tubes are all contained in 2,451 registered facilities. There are 27 linear accelerators registered with the Program. Eighteen are used for medical therapy purposes and nine are used for industrial purposes. We also have 24 facilities registered who use NARM products. As of March 1, 1985, there are 172 NRC licenses in Iowa. It is anticipated that the State will assume approximately 170 of these licenses.

At this time, the State does not wish to assume authority over uranium milling activities or the commercial disposal of low-level radioactive waste. The State, however, reserves the right to apply at a future date to NRC for an amended Agreement to assume authority in these areas.

Regulatory Procedures and Policy

Licensing and Registration

Chapter 136C, The Code, requires licensing of all radioactive materials and radiation machines except for sources of radiation which are specifically exempted by rule. Fees are charged for radiation machine registration as set forth in 470–38.13(1) of our Radiation Emitting Equipment Rules, Title IV. 470–38.13(2) sets forth the provision that a license and inspection fee for radioactive materials will be based on the provisions of 10 CFR Part 170.

Licensing procedures are being developed and will be consistent with those of the NRC. A draft licensing application and sample forms contained in Appendix V will be used in conjunction with licensing and regulatory guides patterned after NRC documents.

General licenses are provided by rule without filing an application with the Department or the issuance of a licensing document. General licenses will be issued for specified materials under specified conditions when it is determined that the issuance of specific licenses is not necessary to protect the public health and safety. Specific licenses or amendments thereto will be issued upon review and approval of an application. A specific license will be issued only to named persons or facilities under the supervision of a named person and will incorporate appropriate conditions and expiration date. A pre-licensing inspection will be conducted when appropriate.

The Department will establish a subcommittee of our Ad Hoc Committee on Rules for Radiation Emitting Equipment and seek its advice and consultation regarding all applications for non-routine medical use of radioactive materials. Appropriate research protocols will be required as a part of such an application. The Department will maintain knowledge of current developments, techniques and procedures for medical use applicable to the licensing program through continuing contact and information exchange with the NRC, other agreement states and the medical profession.

The registration and inspection program for radiation producing machines will continue and the use and

inspection of NARM will be phased into the radioactive materials program.

Inspection Program

The Department has an inspection/compliance program for radiation machines which is similar to that which will be established for the radioactive materials program. Inspections for the purpose of evaluating radiation safety and determining compliance with appropriate rules and provisions of licenses will be conducted as scheduled or in response to requests or complaints. Inspection frequency will be based upon the extent of the potential hazard and experience with the particular facility. Inspection priorities may be changed on a case-by-case basis consistent with current NRC practices. It is anticipated that the state inspection of licensees will be conducted in accordance with the following inspection frequency chart.

License type	Inspection frequency
Industrial Radiography	1 year.
Broad Medical	2 years.
Broad Academic	2 years.
Nuclear Pharmacy	2 years.
Research and Development	3 years.
Broad Industrial (A & B)	3 years.
Nuclear Medicine	3 years.
Teletherapy	3 years.
Broad Industrial (C)	5 years.
Non-Medical Group	5 years.
Mobile Gauges	5 years.
Limited Industrial	6 years.
Academic (not covered above)	6 years.
Gauges, Calibrators, etc.	Initial.[1]

[1] As needed.

All license type/inspection frequency not covered above will be inspected based on NRC criteria.

Inspections will be conducted on an unannounced basis unless the Department determines that an announced inspection is more appropriate. Written inspection procedures developed with NRC guidance will be followed in conducting inspections and preparing reports.

The RHP has personnel trained in regulatory practice and procedures. Additionally, program personnel continue to accompany NRC inspectors during their field inspections in Iowa to gain a higher degree of competency in evaluating radiation safety and to determine compliance with appropriate regulations and license provisions. Inspections will include the observation of pertinent facilities, operators and equipment; a review of the pertinent records and of radioactive materials—all as appropriate to the scope of the activity, conditions of the license and applicable rules. In addition, independent measurements will be made as appropriate.

At the start and conclusion of an inspection, personal contact will be made at management levels whenever possible. Following the inspection, results will be discussed with management. Prompt investigations and reports will be made of all reported or alleged incidents to determine the cause, the steps to be taken for correction, and the prevention of similar incidents in the future.

Compliance and Enforcement

Compliance with rules and license conditions will be determined by inspections and evaluation of inspection reports. When there are items of non-compliance, the licensee or registrant will be informed at the time of inspection as follows:

1. When the items are minor and the licensee or registrant agrees at the time of inspection to correct them, written inspection findings will be prepared which will list the items of non-compliance, confirm any corrections made during the inspection, and require acknowledgment by the person interviewed. The licensee or registrant will be informed that a review of any corrective action items will be conducted at the time of the next regular inspection or by a reinspection.

2. When the non-compliance is considered serious, the person interviewed will be informed at the time of the inspection. Written notification of inspection findings will be sent to the licensee or registrant which will delineate the items of non-compliance and require a written response within 30 days of the written notification date. The response from the license or registrant shall include a correction action plan and a timetable which will outline the completion dates for correcting all non-compliance items.

3. If no reply is received to the initial written notification within the specified time, a regulatory letter will be sent to management. This letter will order compliance and advise that if corrective action is not initiated, the Department will seek appropriate penalties and direct remedial relief.

4. Continued non-compliance as determined by a reinspection, if appropriate, or by failure to respond within five days of the regulatory letter could result in Departmental action as outlined in 470–38.9(5) of our Radiation Emitting Equipment Rules, Title IV. The Departmental action may include one or a combination of the following:

a. Impound or order the impounding of radioactive material in accordance with Iowa Code, Section 136C.5 Subsection 5.

b. Impose an appropriate civil penalty.

c. Revoke a radioactive materials license.

d. Request the County Attorney or the Attorney General to seek court action to enjoin violations and seek conviction for a simple misdemeanor.

e. Take enforcement action that the Department feels appropriate and necessary and is authorized by law.

The Department uses its best efforts to attain compliance through cooperation and education prior to initiating the formal legal procedures outlined above.

Upon request by a licensee or upon the determination by the Department, the terms and conditions of a license may be amended, consistent with our legislation or rules, to meet changing conditions in operations or to remedy technicalities of non-compliance.

Effective Date of License

Any person who possesses a license for agreement materials issued by the NRC, on the effective date of the agreement with the NRC, shall be deemed to possess a like license issued by the Department which shall expire either 90 days after the receipt from the Department of a notice of expiration of such license or on the date of expiration specified in the Federal license, whichever is earlier.

Administrative Procedures

The basic standards of procedures for administrative agencies in the State of Iowa are set forth in Chapter 17A, The Code (copy in Attachment IA). The Department will follow the provisions of this Chapter, Chapter 136C, The Code, which is the act relating to the Regulation of Radiation Machines and Radioactive Material and the Department's Radiation Emitting Equipment Rules, Title IV, with respect to hearings, issuance of orders and judicial review of findings.

Compatibility and Reciprocity

In promulgating the present Radiation Emitting Equipment Rules, Title IV, the Department has, insofar as practicable, maintained compatibility with NRC and agreement state regulations, has avoided requiring dual licensing and has provided for reciprocal recognition of other agreement states and Federal licensees.

Through these rules the State has adopted radiation protection standards and will strive to maintain compatibility with NRC and other agreement states. The Department will also cooperate with NRC and other agreement states in interchanging information and statistics

relating to control of radioactive materials.

Interogency Agreements

Interagency agreements are provided for in Chapter 28E, The Code, (copy in Appendix IB). Currently the ISDH has 28E Agreements with the Iowa Bureau of Labor, the Iowa Department of Transportation, and the Iowa Department of Water, Air and Waste Management. (Copies of each agreement are attached to appropriate legislation in Appendix IB.1, 2 and 3.) The purpose of each is to avoid duplication of effort and to promote coordination of radiation protection activities; assure uniform regulation of the use, manufacture, production, distribution, sale, transport, transfer, installation, repair, receipt, acquisition, ownership and possession of radioactive materials from a radiological health and safety standpoint relating to the exposure of individuals, and to assure timely investigation of all potentially hazardous situations resulting from radioactive material.

Radiation Laboratory Services

The RHP has or will be obtaining the equipment to have the capability of evaluating samples collected during routine inspections and for making independent measurements. The current equipment the program has is listed in Appendix VI. We have included in our 1985–86 budget request $10,500.00 for new equipment which will include additional ion chambers, alpha detection process, a neutron measurement device, audible personnel monitoring devices, etc. We have a good working relationship with Iowa State University (ISU), the University of Iowa (U of I), and the University (State) Hygienic Laboratory (UHL). These institutions have very good radiation measurement inventories and in the past we have been able to borrow equipment as the need arises. All instruments used for inspection and emergency response will be calibrated on the basis recommended by NRC.

Iowa has an environmental surveillance program. It is conducted by the State University Hygienic Laboratory (UHL) and includes radiological analyses of air, surface and drinking waters and milk samples taken State-wide. The UHL also conducts a radiological surveillance program around the Duane Arnold power reactor site under contract with NRC. If, in the future, the State licenses a facility having a potential for a significant radiological impact upon the environment, the State has the capability to develop a site-specific environmental surveillance program. The Iowa enabling legislation empowers the State to charge the licensee a fee to recover the costs of such a program.

The three institutions mentioned above have the capability to do gamma spectroscopy and gross alpha-beta counting of environmental sample. In most cases UHL will be used because it is the agency which provides laboratory services for the State of Iowa. If the UHL is unable to perform necessary tests, assistance will be requested from the appropriate Federal agency.

Emergency Response

The RHP has technically trained personnel and specialized equipment to investigate and evaluate incidents involving ionizing radiation. The program continues to prepare for such response by providing the following:

1. Trained staff for advisement required to meet any given situation.
2. Trained and equipped staff for emergency field activities. If the magnitude to the incident would be too great, assistance could be obtained from the three state emergency response teams which are located at ISU, U of I and UHL.
3. Transportation to the incident site via private auto or by any type of state mode of transportation which would be necessary for prompt response.
4. Established liaison with appropriate Federal officials.
5. Training of key personnel of other State/local agencies.

Radiological assistance in the form of monitoring, liaison with appropriate authorities and recommendations for area security and cleanup are provided by the Department. All program personnel will be maintained at an operation-ready level of training. This will be accomplished by training received in house and from Federal agencies.

Appendix VIIA is the portion of the Nuclear Power Plant Emergency Plant Response criteria of the Iowa Emergency Plan which relates to the ISDH activities. The Plan addresses only off-site releases from fixed nuclear facilities. Upon review you will note that it is the responsibility of the Department to advise the Iowa Office of Disaster Services (ODS) of the extent of the hazard to the public health and safety and recommend protective actions as necessary.

In Appendix VIIB is the portion of Annex E of the Iowa Emergency Plan which outlnies the telephone procedure for a radioactive material incident. This Annex is currently being revised to address State actions to be taken regarding radioactive material spills, overexposures, transportation accidents, fires or explosions, theft, etc., and to update the guidance materials incorporated into the plan. All licensees will be given a copy of Annex E and instructed in the proper method of reporting incidents.

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Advisory Committee on Reactor Safeguards; Combined Subcommittees on Reactor Radiological Effects and Fire Protection; Meeting

The ACRS Subcommittees on Reactor Radiological Effects and Fire Protection will hold a combined meeting on October 18, 1985, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, October 18, 1985—8:30 a.m. until the conclusion of business

The Subcommittees will review the increased N–16 radiation levels and fire protection problems associated with hydrogen addition to BWRs to reduce Intergranular Stress Corrosion Cracking in reactor coolant piping.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to

the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1413) or Mr. Owen Merrill (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 3, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–24048 Filed 10–7–85; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Request for Medicare Payment
(2) Form(s) submitted: G–740B, G–740S, HCFA–1500
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households, Businesses or other for-profit
(6) Annual responses: 800,000
(7) Annual reporting hours: 1,018,892
(8) Collection description: "Medicare programs, medical expense claims, medical fees, railroad employees, beneficiaries" The Board administers the Medicare program for persons covered by the railroad retirement system. The collection will obtain the information needed by The Travelers Insurance Company, the Board's carrier, to pay claims for services and supplies covered under Part B of the program.

Additional Information or Comments: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85–24010 Filed 10–7–85; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–22492; File No. SR-Amex-85–30]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Filing of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1985, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Item I, II,, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "the Exchange") proposes to amend Part V of its Rules, captioned "Rules Principally Applicable to Trading of Option Contracts" by adding a new Section 12 thereto. The text of proposed new Section 12 is as follows:

Section 12. Treasury Bill Options ("European" Style)

Rule 900D. *Applicability and Definitions*

The Rules in this Section are applicable solely to Treasury bill options which, under the rules of The Options Clearing Corporation, may be exercised only on or about their expiration dates ("European style Treasury bill options"). Treasury bill options traded on the Exchange under the Rules set forth in Sections 1 through 9 of this Part V, which may be exercised at any time during their lives pursuant to the rules of The Options Clearing Corporation, are referred to herein as "American style Treasury bill options".

Except to the extent that specific rules in this Section govern or unless the context otherwise requires, the provisions of the Constitution and of all other rules and policies of the Board of Governors (including the rules applicable to "American" style Treasury bill options set forth in Sections 1 through 9 of this Part) shall be applicable to the trading on the Exchange of "European" style Treasury bill options. Pursuant to the provisions of Article 1, Section 3(i) of the Constitution, "European" style Treasury bill options are included within the definition of "security" or "securities" as such terms are used in the Constitution and the Rules of the Exchange.

The following terms, as used in the Rules in this Section, and as applied to "European" style Treasury bill options when used in other Rules of the Exchange, shall have the meanings set forth below:

(1) The term "exercise settlement date" means, with respect to an option contract, the first business day following the expiration date of such option contract on which an exercise of the option may be settled under the rules of The Options Clearing Corporation.

(2) The term "underlying security" or underlying Treasury bill" means, with respect to an option contract, the one-year Treasury bill maturing 13 weeks after the exercise settlement date of such option contract and any other Treasury bill.

(3) The term "class of options" means either all "European" style Treasury bill call option contracts or all "European" style Treasury bill put option contracts.

Rule 901D. *Designation of Option Contracts*

All "European" style Treasury bill option contracts approved for trading on the Exchange shall be designated in accordance with the requirements of Rule 901, and shall further be designated so as to distinguish them from any "American" style Treasury bill options traded on the Exchange.

Rule 902D. *Rights and Obligations of Holders and Writers*

Subject to the provisions of Rules 907 and 909, the rights and obligations of holders and writers of "European" style Treasury bill option contracts dealt in on the Exchange shall be as set forth in the rules of The Options Clearing Corporation.

Rule 903D. *Option Expiration Schedule; Series of Option Open for Trading*

(a) *Expiration Schedule.*—Unless the rules of The Options Clearing Corporation provide otherwise, the exercise settlement dates of "European" style Treasury bill option contracts shall be the earliest day of each March, June,

September and December on which a one-year Treasury bill has 13 weeks remaining to maturity, and four expiration dates per year shall be scheduled for such options, with each such expiration date occurring two business days prior to an exercise settlement date. No series of "European" style Treasury bill options shall be opened for trading on the Exchange unless it is scheduled to expire on one of the expiration dates specified herein, or, if The Options Clearing Corporation has adopted a different schedule of expiration dates, on one of the expiration dates specified in such schedule. The applicable set of expiration dates is hereinafter referred to as the "Expiration Schedule".

(b) *Expiration Dates Open for Trading.*—At the commencement of trading on the Exchange of "European" style Treasury bill options, the Exchange may open series of options having up to four different expiration dates, with first such expiration date being the earliest date on the Expiration Schedule which occurs after the date on which trading commences (but not earlier than 10 business days after the commencement date), and all such expiration dates being consecutive dates on the Expiration Schedule. Thereafter, series of options having more distant expiration dates may be opened for trading following the expirations of prior series, so as to maintain series of options having four or fewer different expiration dates available for trading at any given time, with all such expiration dates being consecutive dates on the Expiration Schedule.

(c) *Exercise Prices.*—The exercise price of each "European" style Treasury bill option contract shall be expressed as the compliment of the annualized discount at which the holder of the option has a right to purchase or sell the underlying Treasury bill pursuant to exercise. Exercise prices of such option contracts shall be established at intervals of .20 (twenty basis points), with each such exercise price being expressed as an integral multiple of .20.

When Treasury bill options having a new expiration date are introduced for trading, option series having up to five different exercise prices may be established for that expiration date. The exercise prices of such option series shall be reasonably close to then current Treasury Bill Reference Price applicable to all option series having the new expiration date. Thereafter, additional series of Treasury bill options having the same expiration date may be opened to reflect changes in such Treasury Bill Reference Price; provided, however, that the Exchange may not introduce any new option series having less than 10 business days to expiration.

The "Treasury Bill Reference Price" applicable to series of options having a particular expiration date shall be the prevailing market price, as determined from time to time by the Exchange, of a forward or futures contract which (i) has (or would have) a delivery date or delivery period coinciding with the exercise settlement date of such option contracts and (ii) requires (or would require) the delivery, at that time, of $1,000,000 principal amount of Treasury bills having 13 weeks to maturity. In making such determinations, the Exchange may, in its discretion, take into account transaction and/or quotation information with respect to Treasury bill forward or futures contracts having different specifications than those set forth herein (e.g., by taking into account price information in respect of a contract having a delivery date which is not identical to the exercise settlement date of the relevant option contract). The Exchange's determinations of Treasury Bill Reference Prices shall be conclusive.

Rule 904D. *Position Limits*

(a) Position limits relating to "European" style Treasury bill options shall be governed by the provisions of Rule 904 except that the position limit applicable to each account with respect to such options shall be 1,500 contracts on the same side of the market.

(b) In determining compliance with the position limits set forth herein, positions in "European" and "American" style Treasury bill options shall not be aggregated.

Rule 905D. *Exercise Limits*

"European" style Treasury bill options are not subject to any exercise limits.

Rule 906D. *Reporting of Options Positions*

Positions in "European" style Treasury bill options shall be reported pursuant to Rule 906, with the minimum position in an account which must be reported being 100 contracts. In computing reportable options positions and in reporting options positions under Rule 906 and under this Rule, positions in "European" and "American" style Treasury bill options shall not be aggregated.

Rule 951D. *Premium Bids and Offers*

All bids and offers made on the Floor for "European" style Treasury bill option contracts shall be expressed as a percentage of $250,000 (e.g., a bid of "1" shall represent a bid to pay a premium of 1% of $250,000—i.e., $2,500—for an option contract).

Rule 952D. *Minimum Fluctuation*

The minimum price fluctuation for dealing on the Exchange in "European" style Treasury bill option contracts shall be one-hundreth of one percent (0.01%) of $250,000 (i.e., $25.00).

Rule 954D. *Unit of Trading*

The unit of trading in each series of "European" style Treasury bill options dealt in on the Exchange shall be $1,000,000 underlying principal amount.

Rule 980D. *Exercise of Option Contracts*

An outstanding "European" style Treasury bill option contract may be exercised on its expiration date by the tender to The Options Clearing Corporation of an exercise notice in accordance with procedures specified in the rules of The Options Clearing Corporation. An exercise notice may be tendered to The Options Clearing Corporation only by the clearing member in whose account with The Options Clearing Corporation the option contract is carried.

Subject to compliance with the rules of The Options Clearing Corporation, a clearing member may accept exercise instructions from its customers with respect to an expiring option at any time of day.

Rule 982D. *Exercise Settlement*

Exercises of "European" style Treasury bill options shall be settled in accordance with the procedures set forth in Rule 982, except that the Commentary under Rule 982 shall not apply to such options.

Commentary.—The settlement or exercises of "European" style Treasury bill options of a particular series shall occur on or after the exercise settlement data applicable to that series of options pursuant to procedures set forth in the rules of The Options Clearing Corporation. In general, each series of "European" style Treasury bill options will expire on a Tuesday, and the exercise settlement date in respect thereof will be the Thursday of the same week; or, if such Thursday is not a business day, the exercise settlement date will be the next business day following such Thursday.

The party obligated to make delivery of underlying Treasury bills may choose whether to make delivery on the exercise settlement date (generally Thursday) or on the following business day (generally Friday); but in either case the aggregate exercise price payable on

settlement is determined as of the exercise settlement date.

Delivery of underlying Treasury bills upon exercise of a "European" style Treasury bill option shall consist of the principal amount of underlying Treasury bills covered by the option having a remaining term to maturity of 13 or fewer weeks from the exercise settlement date (which may be 13-week Treasury bills issued in that week's auction or may be previously issued 52, 26, or 13-week Treasury bills with 13 or fewer weeks remaining until maturity); *provided, however,* that the aggregate exercise price payable upon the exercise of the option shall be calculated on the basis of the delivery of 13-week Treasury bills, with no adjustment for the delivery of shorter maturity Treasury bills.

Rule 983D. *Margin Requirements*

The minimum customer margin requirements applicable to "European" style Treasury bill options shall be the same as the minimum margin requirements set forth in subparagraph (d)(2)(D)(v) of Rule 462 with respect to "American" style Treasury bill options, except that the "out-of-the-money" amount of a "European" style Treasury bill option shall be the amount by which the current Treasury Bill Reference Price specified by the Exchange for such option pursuant to Rule 903D exceeds the exercise price of the option, in the case of a put, or the amount by which the exercise price of the option exceeds such Treasury Bill Reference Price, in the case of a call.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization include statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The general purpose of proposed new Section 12 of the Exchange's options rules is to permit the Exchange to list options on U.S. Treasury bills which would be exercisable only at the time of their expiration ("European style Treasury bill options"). The exercise of such an option would normally be settled by the delivery of Treasury bills having 13 weeks remaining to maturity at the time of delivery.

The Exchange currently trades 13-week Treasury bill options pursuant to the provisions of Sections 1 through 9 of its options rules.[1] Those options may be exercised at any time during their life ("American" style options), and the exercise of such an option is settled by the delivery, on the Thursday or Friday of the week after exercise, of Treasury bills having 13 weeks to maturity at that time.

Although some upstairs professional traders have participated in the Exchange's existing Treasury bill options market, the options have not attracted meaningful order flow from other potential market participants. The Exchange believes that the lack of order flow in its Treasury bill options is attributable to certain non-essential characteristics of those options, rather than to any general absence of a need for options on short-term interest rate instruments.

Accordingly, the "European" style Treasury bill options which the Exchange is now proposing to introduce have been designed to reduce certain risks to which traders and investors in "American" style Treasury bill options are exposed, and also to enhance the utility of Treasury bill options as a means of hedging the risks of short-term interest rate fluctuations. The proposed "European" style options accomplish these objectives in the following ways:

First, since option exercises would be restricted to the time of expiration, the writer of an option could avoid dealing in the underlying Treasury bill market by liquidating his position prior to the expiration of the option. In contrast, the writer of an "American" style option is at risk of receiving an exercise notice at any time that the option is in-the-money, and consequently having to trade in the underlying market either to acquire securities to deliver (in the case of a call) or to liquidate securities received (in the case of a put). Since Treasury bills are traded primarily in a professional market which many persons may be reluctant to enter, it appears that the ability of writers of "European" style options to avoid involuntary involvement in that market may be an attractive feature to a variety of potential writers of the Exchange's Treasury bill options.

Second, the lack of access to primary dealer quotations and last sale information on Treasury bills appears to have discouraged potential traders from participating in the Exchange's Treasury bill options market. Various traders have expressed concen that their ability to judge the value of the options may be inferior to that of the primary dealers since primary dealer quotation and last sale information is available electronically on a real-time basis only to the primary dealers themselves. The lack of primary dealer information should not present a problem with respect to "European" style Treasury bill options since, for reasons explained below, in the case of those options the publicly available quotation and last sale information relating to Treasury bill futures traded on the Chicago Mercantile Exchange ("CME") will serve as an effective substitute for the unavailable primary dealer information. (In contrast, the price relationship between CME's Treasury bill futures and Amex's "American" style Treasury bill options is too inexact to be helpful to most traders.)

Third, the popular strategy of writing covered call options will be easier to implement with "European" style Treasury bill options than with "American" style Treasury bill options, thereby increasing the attractiveness of the options to banks and other institutions seeking to enhance the total return on their Treasury bill positions through covered option writing. The relative simplicity of writing covered calls with "European" style options is attributable to the fact that the Treasury bills to be delivered in settlement of an option exercise will remain the same throughout the life of the option (i.e., the specific maturity date of the Treasury bills to be delivered in settlement of an exercise will remain constant throughout the life of the option), and such Treasury bills will exist during the entire life of the option (i.e., they will have been issued[2] before the option is listed for trading on the Exchange).

In general, the Exchange's "European" style Treasury bill options will have contract specifications similar to those applicable to the currently traded "American" style options. In particular, the exercise of a "European" style option would normally be settled by the delivery of $1,000,000 principal amount

[1] Although the same Sections authorize trading in 26-week Treasury bill options, the Exchange has not listed such options.

[2] The Exchange may decide at some time in the future to list options before their underlying Treasury bills have actually been issued. The Exchange would not, however, open trading in any option series before the underlying Treasury bills began trading on a "when issued" basis in the cash market.

of Treasury bills having 13 weeks remaining to maturity at the time of delivery (with deliveries of shorter maturities permissible at a penalty).

Given the basic similarity of the contract specifications of the "European" and "American" style Treasury bill options, and the Exchange's expectation that investors will prefer the "European" style over the "American" style, the Exchange intends to phase out trading in its "American" style Treasury bill options following the implementation of trading in the "European" options. (However, the Exchange is not now proposing to delete its rules relating to the trading of "American" style Treasury bill options.)

Most of the Exchange's trading rules and regulatory requirements which are currently applicable to "American" style Treasury bill options are also pertinent to the proposed "European" style options, either in their existing form or with minor modifications. Accordingly, proposed Rule 900D provides that "European" style Treasury bill options will be subject to all of the Exchange's rules governing options trading generally, except to the extent that specific rules in Section 12 govern. The rules included in Section 12 reflect the unique characteristics of the proposed "European" style options. Those characteristics are explained below, and the explanations include references to the relevant rules.

The most distinguishing feature of the "European" style options is that, as noted above, Treasury bills of a specific maturity date will remain the "underlying security"—i.e., the security deliverable in settlement of an exercise—throughout the life of each option contract.[3] This characteristic results from the fact that, under the rules of The Options Clearing Corporation ("OCC") option exercises will be limited to the expiration date of a contract, thereby permitting all such exercises to be settled on a single "exercise settlement date" established by OCC.[4]

Since all options of the same series will have the same exercise settlement date, and OCC rules will call for exercises to be settled by the delivery of Treasury bills maturing 13 weeks after the exercise settlement date, the specific maturity date of the Treasury bills underlying a particular option contract will be known from the time that the option commences trading on the Exchange.

The specific exercise settlement dates applicable to the proposed "European" style Treasury bill options would be the earliest day of each March, June, September and December on which a one-year Treasury bill has 13 weeks remaining to maturity,[5] and the expiration date of each option series would be two business days prior to its exercise settlement date.[6] (See paragraph (a) of proposed Rule 903D.) These dates were selected because they are delivery dates specified in CME's rules with respect to its 13-week Treasury bill futures contract. Since the futures contract has the same delivery specifications as Amex's proposed option contract—i.e., it calls for the delivery of $1,000,000 face value of Treasury bills having 13 weeks to maturity at the time of delivery—the selection of option exercise settlement dates that coincide with CME's futures delivery dates should result in a relatively straightforward mathematical relationship between the options traded on the Amex and the futures contracts traded on CME. The price relationship between the two products would be based on the fact that both the futures contract and the option contract would call for delivery of the same quantity of the same item at the same time (assuming that the option exercised). Accordingly, the transaction and quotation information available with respect to the futures contracts should provide valuable guidance in pricing the options.

The Exchange is also intending to rely on Treasury bill futures prices, rather than Treasury bill spot prices, as benchmarks for determining whether its "European" style Treasury bill options are in- or out-of-the-money. The rationale for referring to futures prices rather than spot prices for this purpose may be illustrated by the following examples comparing analogous arbitrage strategies involving "American" style call options on the one hand and "European" style call options on the other hand. In the case of an option which can be exercised at any time during its life, there is a risk-free arbitrage opportunity present whenever the option premium is less than the amount by which the market price of the deliverable item exceeds the exercise price of the option. For example, if a stock option having a strike price of 45 is trading at a premium of 4 when the underlying stock is trading at 50, an arbitrageur can obtain a $1 risk-free profit by simultaneously buying the option, exercising it, and selling the stock short, and then covering the short sale with the stock received in settlement of the exercise of the option. In the case of a "European" style option, on the one hand, this type of arbitrage transaction cannot be accomplished in the identical manner, since the option cannot be exercised at the same time it is purchased. An analogous arbitrage opportunity could exist with respect to a "European" style option, however, when the option premium is less than the amount by which the market price of a forward (or futures) contract having a delivery date identical to the exercise settlement date of the option, and calling for delivery of the same security or commodity that underlies the option, exceeds the exercise price of the option. In that event, a risk-free profit might be obtained by buying the option and simultaneously selling the forward (or futures) contract, maintaining both positions until the expiration date of the option and the delivery date of the forward (or futures) contract, exercising the option when it expires, and delivering the security or commodity received in settlement of the exercise to fullfill the delivery obligations under the forward (or futures) contract.

These examples illustrate that the intrinsic value of a "European" style option depends more on the forward (or futures) price of the underlying item than on the spot price of the underlying item.

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[3] In comparison, the particular Treasury bill (i.e., the designated maturity date) deliverable in settlement of the exercise of an "American" style option changes from week to week, due to the fact that an exercise during any given week is settled by the delivery of Treasury bills on the Thursday or Friday of the following week having 13 weeks remaining to maturity at that time.

[4] As in the case of "American" style Treasury bill options, OCC rules would permit exercises to be settled after the exercise settlement date, but without a price adjustment for the later delivery. See proposed Rule 982D. This leeway is necessary for logistical reasons. Since the exercise settlement price is calculated as of the exercise settlement date, allowing the later delivery has little or no impact on the pricing of the options.

[5] Although Proposed Rule 903D authorizes the establishment of different exercise settlement dates, the Exchange does not foresee such a change being made.

[6] Since Treasury bills generally mature on Thursdays, the exercise settlement dates established for the Exchange's options would also be Thursdays in order to permit the delivery of Treasury bills having exactly 13 weeks to maturity. Thus, a rule establishing option expiration dates two business days before each exercise settlement date would cause options to expire on Tuesdays. While the Exchange believes that this structure is desirable, it appears that its implementation will require OCC to do some reprogramming. Accordingly, to expedite the start-up of trading in its "European" style Treasury bill options, the Exchange may wish to amend its proposed rules to provide that such options will expire on the Saturday before each exercise settlement date. Such an amendment would permit the rules and systems which have already been implemented in respect of "American" style Treasury bill options to be applied to the settlement of exercises of "European" style options without modification. The Exchange will decide shortly whether to revise its proposed rules in this manner.

Accordingly, the Exchange is proposing to adopt a rule under which the in- or out-of-the-money value of each series of its "European" stype Treasury bill options would be determined by reference to the prevailing market price of a foward or futures contract which has a delivery date or delivery period that coincides with the exercise settlement date applicable to the particular option series involved and which requires the delivery, at that time, of $1,000,000 principal amount of Treasury bills having 13 weeks to maturity. The particular forward or futures price designated by the Exchange to serve as a benchmark for determining the in- or out-of-the-money value of a particular serise of options is referred to in the proposed rule as the "Treasury Bill Reference Price" applicable to that series. All series of options expiring on the same date will, of course, be assigned the same "Treasury Bill Reference Price." (See paragraph (c) under proposed Rule 903D.)

The proposed rule would permit the Exchange to exercise discretion in deciding which particular forward or futures market(s) to rely upon for the purpose of determining its Treasury Bill Reference Prices, and would specifically authorize the Exchange to extrapolate from prices of forward or futures contracts which may have delivery specifications somewhat different from those of the options.

In practice, however, the Exchange intends generally to designate the daily settlement prices of futures contracts traded on the CME as Treasury Bill Reference Prices for its corresponding options (e.g., the settlement price of the CME's March futures contract would be designated as the Treasury Bill Reference Price for the Exchange's March options, the settlement price of the June futures contract would be designated as the Treasury Bill Reference Price for the June options, etc.) However, the Exchange may occasionally designate other prices as Treasury Bill Reference Prices if it appears that the CME daily settlement prices do not accurately reflect existing supply and demand; this situation could occur, for example, if a daily price limit is reached on CME early in a trading day. In that event, the Exchange might poll Government securities dealers to obtain forward prices to serve as a basis for determining its Treasury Bill Reference Prices.

The functions of the Treasury Bill Reference Prices designated by the Exchange with respect to its "European" style Treasury bill options would be (1) to determine the exercise prices at which new series of options will be opened for trading (see paragraph (c) of proposed Rule 903D) and (2) to determine the applicable minimum margin requirements (see proposed Rule 983D).

The Exchange's decision to establish exercise settlement dates during the months of March, June, September and December will produce an expiration cycle for "European" style Treasury bill options similar to the March expiration cycle now used for "American" style Treasury bill options (as well as for various stock options traded on the Exchange). However, unlike the Exchange's existing options, which always expire on the Saturday following the third Friday of an expiration month, the specific time of month at which the "European" options would expire would vary from month to month. This variation would be attributable to the fact that their respective expiration dates would be tied to exercise settlement dates,[7] which in turn would depend on the maturity dates of one-year Treasury bills.[8] Under this system, it would be possible for an option to expire at almost any time during the months of March, June, September and December, and it would also be possible for an occasional expiration to occur during a prior month if the exercise settlement date occurs very early in one of those months. In general, option expiration dates would occur at 12-week intervals, with a 16-week interval between expiration dates occurring occasionally.

Although paragraph (b) of proposed Rule 903D would permit the Exchange to maintain series of options having up to four different expiration dates available for trading at any given time, the Exchange's current intention is to keep only two expiration dates open at a time, replacing expired series with new series having approximately 6 months to expiration at the time of listing. This choice reflects the fact that the Exchange does not now anticipate a substantial demand for longer term options, since trading in listed options has generally gravitated toward series of options having a relatively short time remaining to expiration. Also, if trading in new series is opened far in advance of their expiration dates, there is a possibility that a large number of illiguid series will proliferate, since new series having the same expiration dates would be added over time to reflect price changes in the underlying Treasury bills.

Nevertheless, the Exchange would like to have authority to list options having up to four different expiration dates since it is possible that, given the fact that the "European" style options cannot be exercised prior to their expiration, investors may express more of an interest in writing long-term options than the Exchange now anticipates. In particular institutional investors who purchase newly-issued one-year Treasury bills may become interested in writing options against those positions. The Exchange would like to be in a position to list longer term series without delay if market participants ask it to do so. The Exchange might decide, for example, to open series of options having a new expiration date as soon as the U.S Treasury makes a formal announcement of its intention to auction the one-year Treasury bills that would underlie such options (i.e., the Treasury bills that would be deliverable as 13-week Treasury bills if and when the options are exercised), so that the options would be available for trading while the new Treasury bills are trading on a "when issued" basis. The Treasury normally announced the auction of one-year Treasury bills approximately one week in advance of the auction new Treasury bills are normally issued one week after the auction.[9] The Exchange would not open series of options having a new expiration date prior to the announcement of the relevant auction.

Paragraph (c) of proposed Rule 903D indicates the range of exercise prices which would be established with respect to any given expiration date. As in the case of the "American" style Treasury bill options traded on the Exchange, the exercise price of each "European" style option contract would be expressed as the complement of the annualized discount at which the underlying Treasury bills could be purchased or sold pursuant to the exercise of the option. However, exercise prices of the proposed "European" style Treasury bill options

[7] As discussed above, while the Exchange's current intention is to designate the Tuesdays immediately preceding exercise settlement dates as expiration dates, the Exchange may revise this aspect of its proposed rules and instead designate the Saturdays prior to exercise settlement dates as expiration dates.

[8] Under proposed Rule 903D, each exercise settlement date would occur precisely 13 weeks prior to the maturity date of a one-year Treasury bill (subject to adjustments for holidays). Since 52-week Treasury bills are generally issued at 4-week intervals, there will normally be only one such date per month. In the event that two such dates occur during the same month, the earlier of the two dates will be selected. (See paragraph (a) of proposed Rule 903D.)

[9] Such announcements are made on Fridays, with the auction and issuance occurring on the two succeeding Thursdays.

would be established at intervals of .20 (twenty basis points), rather than at the .50 intervals now applicable to the Exchange's "American" style Treasury bill options. This change is based on the Exchange's experience with its existing options not on any generic differences between "European" and "American" style options. Although the proposed rule would authorized the Exchange to establish up to five exercise prices when series of options having a new expiration date are opened for trading, the Exchange intends generally to establish only three exercise prices for each new expiration date (and, of course, to add new exercise prices for the same expiration date as the underlying prices changes).

Paragraph (c) of proposed Rule 903D further provides that the Exchange may not introduce any new option series having less than 10 business days to expiration. This provision is consistent with the Exchange's general policy of not opening new series of options close to their expiration dates.

Proposed Rule 904D would establish position limits of 1,500 contracts on each side of the market for "European" style Treasury bill options. In comparison, the position limits applicable to the Exchange's "American" style Treasury bill options are 1,000 contracts on each side of the market. The Exchange believes the proposed higher limit is justified because there will be substantially greater supply of Treasury bills available to be delivered in settlement of option exercise than there were at the time the 1,000 contact limit was established. The increased supply is attributable to two factors: First, the size of Treasury bill auctions has increased substantially over the years, largely due to the need of the Federal government to finance an increased deficit. This factor, in and of itself, would support an increase in the position limits applicable to any Treasury bill options traded on the Exchange, irrespective of the question of whether those options are "European" or "American" style. Second, the fact that the expirations of "European" style Treasury bill options will be scheduled at times when one-year Treasury bills have 13 weeks remaining to maturity means that the supply of Treasury bills available to be delivered in settlement of each exercice will include both one-year and 26-week Treasury bills having 13 weeks remaining to maturity, as well as newly issued 13-week Treasury bills.

Proposed Rule 904D further provides that, in determining compliance with position limits, positions in "European" and "American" style options will not be aggregated. The Exchange believes that this separation is appropriate since it is unlikely that the expiration dates of the two types of options will coincide, which, in turn, reduces the likelihood that there will be large numbers of exercises of both types of options at the same time. In any event, this issue is moot for most practical purposes, since the Exchange intends to begin phasing out its "American" style options as soon as the "European" style options are introduced for trading.

The Exchange is not proposing any exercse limits for its "European" style options since those options cannot be exercised at any time prior to expiration.

Although proposed Section 12 includes rules concerning the reporting of options positions (Rule 906D), premium bids and offers (Rule 915D), minimum price fluctuations (Rule 952D), option exercise procedures (Rule 980D), and exercise settlement procedures (Rule 982D), the requirements of those rules are not substantively different from the requirements of the Exchange's corresponding rules concerning "American" style Treasury bill options (except for the fact that proposed Rule 982D contemplates that the "European" style options will expire on Tuesdays rather than on Saturdays). Those rules have been included in Section 12 primarily for the purpose of clarifying the requirements which are applicable to the "European" style options.

The implementation of trading in "European" style Treasury bill options in accordance with the rules proposed by this submission would be consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange, and, in particular, section 6(b)(5) of the Act. Such options will provide investors with useful new hedging and trading opportunities; and the rules proposed by this filing to govern trading in such options will facilitate the maintenance of fair and orderly markets, help to prevent fradulent and manipulative acts and practices, and promote just and equitable principles of trade, thereby protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 2, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24042 Filed 10-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22495; File No. SR-NYSE-85-32]

Self-Regulatory Organizations, Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Options Stop and Stop Limit Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 27, 1985, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Exchange Rule 750(h), Supplementary Material .91, to allow the election of stop and stop limited orders by a quotation as well as a transaction. Orders elected by a quotation may not be excecuted without the prior approval of a Floor Official.

II. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Exchange is proposing to allow, with the prior approval of a Floor Official, option stop and stop limit orders to be elected by quotations, in addition to being elected by transactions.

Stop and stop limit orders currently may only be elected when a tansaction occurs at the investor's stop price, or at a price that pentrates the stop price. If no transaction occurs, the order is never activated. This situation presents a problem in inactive option series, such as those series that are deep in- or out-of-the-money. The quotations in the series may move substantially, based upon changes in the value of the underlying security, without any transactions occurring. In this case, the investor's order is never activated and his goal of protection against adverse price movements in the option is defeated.

The proposed rule change will allow the stop or stop limit order to be activated when the market in the option series, as reflected in the quotation, reaches the investor's stop price. This change insures that when the market in an option series reaches the level where an investor desires the protection of a stop or stop limit order, that protection will be available at the price the investor wishes.

The investor's interest, as well as the interest of a fair and orderly market, is protected further by the requirement that a Floor Official approve the election before the order may be executed.

The statutory basis for the proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"), specifically, its requirements that the rules of a national securities exchange promote just and equitable principles of trade, facilitating transactions in securities, and protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition. In fact, by conforming the Exchange's rule to the rules of the American Stock Exchange ("Amex"), the proposal promotes competition by providing investors in options traded on the Exchange the same privileges afforded investors in options on the Amex.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and in particular, the requirements of Section 16 and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission previously approved a substantially identical proposal by the American Stock Exchange, Inc. and has not received any adverse comments on that rule change.[1] In the opinion of the NYSE, its proposed rule change will promote competition between markets and also serve to reduce investor confusion by promoting uniformity among options rules.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth, Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 29, 1985.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is approved.

- For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 2, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24039 Filed 10-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22498; File No. SR-NYSE-85-26]

Self-Regulatory Organization; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE") on August 13, 1985, submitted

[1] *See* Securities Exchange Act Release No. 22240 (July 15, 1985), 50 FR 29776 (File No. SR-Amex-84-41).

a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to increase the size of orders eligible for entry in the NYSE's SuperDOT system and to change the reference price which is assigned to market orders entered through the SuperDOT system.

The NYSE's SuperDOT system is an order routing and execution system for market and marketable limit orders up to a certain size. SuperDOT routes orders from a NYSE member's offices to the specialist in the particular stock on the floor of the NYSE. For certain stocks included in the Immediate Reporting Service, SuperDot will automatically execute orders up to a certain size at the NYSE quote when the NYSE quote equals the best quote disseminated by any participant in the Intermarket Trading System ("ITS") and the spread between the bid and ask is no more than an eighth point. For all stocks, SuperDOT executes eligible orders automatically at a reference price when the specialist fails to report an execution within a predetermined time period, currently three minutes. The reference price in use at present is the NYSE last sale price preceding receipt by SuperDOT of the order.

The NYSE proposed rule change increases the size of market and marketable limit orders eligible for entry in SuperDOT from 1099 shares to 3099 shares, extends the NYSE's policy on the specialist not charging a commission on SuperDOT market and marketable limit orders to orders up to 3099 shares, and extends the automatic system execution of orders not executed by specialists within three minutes of receipt to orders up to 3099 shares. (The NYSE is not raising the size of orders eligible for the Immediate Reporting Service, however.) In addition, the proposed rule change modifies the reference price assigned to SuperDOT orders from the previous last sale price to the NYSE quotation at the time the SuperDOT order is printed on the floor. Finally, the proposed rule change limits the specialists's "½ point error guarantee" under NYSE Rule 123A.47 to orders up to 1099 shares.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 22327 (August 13, 1985), and published in the Federal Register (50 FR 33662) on August 20, 1985. No comments were received.

The Commission believes that the proposed rule change, by increasing the size of orders that can be electronically transmitted to the exchange specialist, should increase the efficiency of the market and speed the execution of orders. The Commission is concerned, however, regarding the use of the NYSE quote as the reference price for automatic execution of orders when a specialist fails to act within a specified period of time. The Commission notes that every other exchange system in which executions occur on a derivative or automated basis, including the NYSE's R4 [1] and Immediate Reporting Services, provide executions based on the best bid and offer of all participants in ITS ("ITS/BBO"). Although at present only a very small percentage of NYSE orders are executed at the reference price after a specialist fails to act, the NYSE is authorized to reduce the time period before orders are executed automatically from three to two minutes without a further rule filing, and this time period conceivably could be reduced further at some future time.

In response to this Commission concern, however, the NYSE staff has indicated that the NYSE is considering use of alternative technology such as "touch screens" and other display devices in place of automatically generated executions, and thus it is possible that the SuperDOT automatic execution feature may be eliminated in the near-furture. To avoid expensive reprogramming of NYSE systems for what might be only a short term change, the NYSE staff has committed to discuss with the Commission staff the status of its intended shift to display technology within eighteen months of approval of the proposed rule change. The NYSE staff also indicated that, if NYSE systems providing system-generated automatic executions continue to be relied upon to a significant degree, and the Commission continues to believe use of the ITS/BBO in these systems is necessary, then a date certain will be agreed upon for use of the ITS/BBO in these NYSE systems.[2]

In view of this representation and the benefits of greater efficiency in order routing provided by the rule change, the Commission has concluded that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 2, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–24043 Filed 10–7–85; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 20350 (November 4, 1983), 48 FR 51732.

[2] Letter from Santo Famularo, Assistant Vice President, NYSE, to Richard Chase, Associate Director, Division of Market Regulation, SEC (September 24, 1985).

[Release No. 22497; File No. SR-NYSE-85-28]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval To Proposed Rule Change

On August 19, 1985 the New York Stock Exchange, Inc., submitted to the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder[2] a proposed rule change to permit individual stock options specialists and their associated persons,[3] (1) to engage in nonmaterial business transactions with the issuer of stocks underlying speciality options or with insiders of the issuer,[4] (2) to accept specialty option orders from small pension and profit sharing funds,[5] (3) to participate as selling group members in firm commitment underwriting syndicates for the distribution of nonconvertible senior securities of issuers of stock underlying specialty options, so long as the specialist or associated person is allotted no more than 20% of the offering,[6] and (4) to

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b–4 (1984).

[3] "Associated persons" includes the specialist's member organization itself, members, allied members and approved persons (*e.g.*, controlling parent or controlled subsidiary organizations) of the specialist's member organization and officers or employees of the member organization. *See* NYSE Rule 750(g), Commentary .30(d)(ii).

[4] NYSE rules currently prohibit stock options specialists from engaging in business transactions with issuers and insiders of issuers of the stock underlying the specialists speciality options. NYSE Rule 750 (j)(ii)(C), which applies NYSE Rule 460, Commentary .10 to stock options specialists. The NYSE proposal defines a material transaction as one that either is material in value to the issuer or specialist, would provide access to material non-public information relating to the issuer, or would give rise to a control relationship between the issuer and the specialist.

[5] NYSE rules currently prohibit stock options specialists and their member organizations from accepting specialty options orders from any pension or profit sharing fund. NYSE Rule 750(j)(ii), which applies NYSE Rule 113(a) to stock options specialists and their member organizations. The NYSE proposal defines "small" funds as ones with assets of $5,000,000 or less.

[6] NYSE rules currently effectively, although not specifically, prohibit such activity. NYSE Rules 750(j)(iii) and (g), Commentary .30

make recommendations for the purchase or sale of stocks underlying speciality options provided such recommendations are contained in research reports described in the NYSE proposal. These research reports would be similar to those described in Rule 139(b)[7] under the Securties Act of 1933 ("Securities Act").[8]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–85–28.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendment also will be available at the principal office of the NYSE.

In its filing, the NYSE states that the proposed rule change is substantively the same as a change to the rules of the American Stock Exchange, Inc. ("Amex") that the Commission recently approved.[9] The NYSE states that the filing is designed to protect the NYSE's competitive position by permitting NYSE stock options specialist and their associated persons to engage in the same activities permitted their counterparts on other options exchanges.[10] The NYSE also states that the proposed rule change, by removing restrictions on the activity of stock options specialists and their associated persons, will help attract potential specialist firms for NYSE options that might otherwise be deterred. According to the NYSE, the statutory bases for the proposed rule change are sections 6(b)(5), 6(b)(8) and 11(A)(a)(1)(C)(ii) of the Exchange Act.[11]

The Commission finds that the NYSE proposal is in all material respects identical to the Amex proposal the Commission previously approved.[12] In its orders approving the Amex proposal, the Commission identified the regulatory purposes of rules such as those the NYSE seeks to eliminate or liberalize, as well as the Commission's reasons for finding that changes to these rules such as NYSE proposes are consistent with the Exchange Act. The Commission finds that the discussion and findings contained in the orders approving the Amex proposals are equally applicable to the NYSE proposal.[13]

For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Sections 6 and 11A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the proposal is in all material respects identical to the Amex aproposal previously approved by the Commission after a full notice and comment period.[14]

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 2, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24041 Filed 10-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22496; File No. SR-NYSE-85-30]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

On August 19, 1985, the New York Stock Exchange, Inc. ("NYSE") filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 under the Act[2] a proposed rule change to amend NYSE Rule 762 (Filing of Trade Information) to enumerate several data elements that must be captured at the time of an option transaction. These elements include the time of the transaction, the identity of the contra-brokers, and the type of account that entered the order. These elements currently are required to be submitted to the NYSE under existing NYSE Rule 762(k), which requires the submission of "such other information as may be required by the Exchange." According to the NYSE, the purpose of the proposed rule change is to enumerate these elements explicitly in Rule 762 in order to emphasize to NYSE members that all elements necessary for the options audit trail must be submitted. Violators of the rule would be subject to sanctions, including the imposition of fines under the Exchange's disciplinary procedures.[3] The NYSE states that the statutory basis for the proposed rule change is section 6(b)(5) of the Act.[4]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference

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[7] 17 CFR 239.139(b)(1985).

[8] 15 U.S.C. 77a et seq. (1982). The NYSE rules currently prohibit stock options specialists and their associated persons from making any recommendations for the purchase or sale or stocks underlying the specialists speciality options. NYSE Rule 750(g), Commentary .30(d)(i).

[9] *See* File NO. SR–Amex–82–27, approved in Securities Exchange Act Release Nos. 21134 and 21750, July 12, 1984 and February 22, 1985, 49 FR 29183 and 50 FR 7433.

[10] The options exchanges other than Amex do not have restrictions similar to those NYSE is seeking to eliminate.

[11] 15 U.S.C. 78f(b)(5), 78f(b)(8) and 78k–1(a)(1)(C)(ii) (1982).

[12] *See supra*, note 9.

[13] Among other things, the Commission made clear in its Amex orders that approval of the proposals to allow research reports by options specialists and their associated persons does not relieve them of the responsibility to comply with applicable Federal securities laws and rules, including Rule 10b–10 under the Exchange Act (17 CFR 240.10b–10 (1985)) and Rule 139 under the Securities Act (17 CFR 239.139 (1985)).

[14] No comments were received on the Amex proposal.

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1984).

[3] The Exchange also requests an amendment to its minor disciplinary rule violation plan (NYSE Rule 476A) pursuant to Rule 19d-1(c) under the Securities Exchange Act of 1934. *See* Securities Exchange Act Release No. 22300 (August 8, 1985) 50 FR 328[illegible] for the original notice of this plan.

[4] 15 U.S.C. 78f(b)(5)(1982).

should be made to File No. SR–NYSE–85–30.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the NYSE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the data elements explicitly incorporated by the proposed rule change into Rule 762 currently are required to be submitted to the Exchange under the general authority of NYSE Rule 762(k). The proposal, therefore, only incorporates into rule text an existing Exchange requirement.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 2, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24040 Filed 10-7-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 85-10-12]

Fitness Determination of Mountain West Airlines, Inc.; Order to Show Cause

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 85-10-12, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Mountain West Airlines, Inc. is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Divsion, P-47, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Objections shall be filed no later than October 23, 1985.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Special Authorities Division, Department of Transportation, 400 7th Street, SW., Washington, DC 20590 (202) 755-3812.

Dated: October 2, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-24059 Filed 10-7-85; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; System of Records

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of a New System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), Department of the Treasury, Internal Revenue Service (IRS), gives notice of a proposed new System of Records: Debtor Master File (DMF); Computer Services—Treasury IRS 24.070. This system was designed to automate the previous manual system used by the Service to collect delinquent child support obligations and to allow for the inclusion of other delinquent Federal agency obligations. The Government's efforts to collect those obligations from Federal tax refunds were instituted under Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981. The Act, approved in August and effective on October 1, 1981, provided in general that individual income tax overpayments (i.e. refunds) may be offset against certain delinquent child and spousal support obligations.

An obligation for child or spousal support arises from a court or administrative order. If the obligation is not met, the other spouse—with custody of any children—may be forced to seek assistance under the Aid to Families with Dependent Children (AFDC) Program, which is funded by the Department of Health and Human Services (HHS) and administered by the states. As a condition of receiving AFDC, the spouse must assign his/her rights to support payments to the state. Under Federal law, the state must verify that the debt information is correct and to try to collect the support. As a part of that responsibility, they may refer uncollected cases to IRS, through HHS. The Service must rely on the state certification, and makes no attempt to verify the information.

To ease the burden on IRS of manually reviewing and comparing the documentation provided from these agencies with the individual taxpayer overpayments available for offset and to prepare accounting reports, the DMF was designed. It will contain all the information provided by the agencies. Prior to the filing of taxpayer returns, an annual Pre-Offset Notice can be generated to inform taxpayers that any tax refund will be applied to a delinquent obligation. The accounting reports generated will reflect the total number and amount of refunds applied to debts.

In 1986, the DMF will be expanded to include delinquent Federal agency and non-AFDC obligations. Collection of non-tax debts owed to the government was provided for in the Spending Reduction Act of 1984, Pub. L. 98-369, and the Child Support Enforcement Amendments of 1984, Pub. L. 98-378, respectively.

Each Fall, agencies will provide IRS with a listing of the names of individuals involved and the amounts of obligations. IRS will compare this information to the data on its individual master file and mark the accounts to be offset. When a return is processed against a marked file, any refund due will be applied against the delinquent obligation, and a notice of offset is sent to the taxpayer. Any portion of the refund remaining after the offset will be refunded to the taxpayer.

DATES: Public comments must be received by November 7, 1985. If no comments are received to which the Department published a notice incorporating those comments, this system will become effective on December 9, 1985.

ADDRESS: Director, Returns Processing and Accounting Division, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard M. Smith, Chief, Revenue and Accounting Branch, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

Dated: October 1, 1985.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Treasury/IRS 24.070

SYSTEM NAME:

Debtor Master File (DMF)—Treasury/IRS.

SYSTEM LOCATION:

National Computer Center (NCC), Martinsburg, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The file is built upon the entity records; name and social security number (SSN), of people who have delinquent obligations to a Federal or state agency. It will contain the amount owed by the obligor, the name of the Federal or state agency to whom the obligation is owed and a cross-reference number (SSN) of the spouse in the case of a jointly filed return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301
26 U.S.C. 6305
26 U.S.C. 6402 (c)(d)
Child Support Enforcement Amendment of 1984
Pub. L. 97-35
Section 464 Social Security Act
31 U.S.C. 3720A
Spending Reduction Act of 1984, Pub. L. 98-369

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disk file.

RETRIEVABILITY:

Name, address and social security number.

SAFEGUARDS:

Safeguards will not be less than those provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

The information is kept for one year, then destroyed. A new Debtor Master File is established each year.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Assistant Commissioners, Returns and Information Processing and Computer Services. Officials maintaining the system—Directors, Returns Processing and Accounting, and Software Divisions. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest any record contained in the system of records must contact the agency to whom the debt is owed.

RECORD SOURCE CATEGORIES:

Names, SSN's and obligation amounts are supplied by the Federal or state agency to whom the delinquent obligation is owed.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85-24034 Filed 10-7-85; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Administrator's Educational Assistance Advisory Committee; Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Educational Assistance Advisory Committee, authorized by section 1792, title 38, United States Code, will be held at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. on November 14, 1985, at 9 a.m. in the Omar N. Bradely Conference Room. The meeting will be for the purpose of reviewing term-by-term certification procedures by institutions of higher learning, other provisions of educational assistance requirements and making appropriate recommendations thereon.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact MS. Mary F. Leyland, Deputy Director, Education Service (221), Veterans Administration Central Office (phone 202 389-2152), before November 7, 1985.

Interested persons may attend, appear before or file statements with the committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 2:30 p.m. on November 14, 1985.

By direction of the administrator.

Dated: September 27, 1985.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-23975 Filed 10-7-85; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC on October 22, 1985, at 8:30 a.m.

The committee will: (1) Review and make appropriate recommendations relative to the Veterans Administration's programs to assist Vietnam veterans who were exposed to herbicides; such recommendations may concern the information delivery system and outreach efforts, scheduling of Agent Orange-related examinations, essential follow-up activities, and other related matters; (2) advise the Administrator on VA Agent Orange-related programs, programs of the Federal Government, and State programs which are designed to assist veterans exposed to herbicides, and simultaneously, will minimize duplication of VA and other federal programs concerned with the Agent Orange issue; (3) receive and review information from veteran service organizations regarding services provided by the Veterans

Administration to Vietnam veterans concerned about the possible adverse health effects of exposure to herbicides; (4) review and comment on proposals for research on the possible health effects of exposure to herbicides; and (5) serve as a forum for individual veterans to inform Veterans Administration of their views on policy issues and on the operation of Agency programs designed to assist veterans exposed to herbicides and dioxins in Vietnam.

The meeting will be open to the public up to the seating capacity of the room. Members of the public may direct questions, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Agent Orange Projects Office (10X21), Department of Medicine and Surgery, Veterans Administration Central Office, Washington, DC 20420. (Telephone: (202) 389-5301).

Dated: September 27, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-23976 Filed 10-7-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 195
Tuesday, October 8, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., October 11, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-24096 Filed 10-4-85; 11:05 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., October 18, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 85-24097 Filed 10-4-85; 11:05 am]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., October 18, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 85-24098 Filed 10-4-85; 11:05 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., October 24, 1985.

PLACE: 2033 K Street, NW., Washington, D.C. 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Applications of Monex International, Ltd. and of First Asset Corporation for registration as leverage transaction merchants and registration of certain leverage commodities.

Application of the Chicago Board of Trade for designation in the NASDAQ 100 Index.

Application of the Chicago Mercantile Exchange for designation in the Over-the-Counter Industrial Stock Price Index.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-24099 Filed 10-4-85; 11:05 am]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., October 25, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-24100 Filed 10-4-85; 11:05 am]

BILLING CODE 6351-01-M

6

INTERNATIONAL TRADE COMMISSION

USITC SE-85-41

TIME AND DATE: 10:00 a.m., Wednesday, October 16, 1985.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints:
   a. Kukui nut products (Docket No. 1242).
5. Investigation No. 731-TA-282 [Preliminary] (Candles from the People's Republic of China)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24183 Filed 10-4-85; 3:38 pm]

BILLING CODE 7020-02-M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-42]

TIME AND DATE: Fridady, October 18, 1985 at 11:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation No. 701-TA-258/260 and 731-TA-283/285 [Preliminary] (Certain table wine from the Federal Republic of Germany, France and Italy)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24184 Filed 10-4-85; 3:38 pm]

BILLING CODE 7020-02-M

8

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 1:30 p.m., Wednesday, October 16, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTERS TO BE DISCUSSED:

Ex Parte 387 (Sub-No. 958):
Exemption from Regulation—Shipments Subsequently Made Subject to a Contract Rate
Ex Parte 397:
Notice of Proposed Exemption of Certain Railroad Securities from Regulation
Ex Parte 274 (Sub-No. 13):
Rail Abandonments—Use of Rights-of-Way as Trails

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275-7252.

James H. Bayne,

Secretary.

[FR Doc. 85-24126 Filed 10-4-85; 8:45 am]

BILLING CODE 7035-01-M

9

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [50 FR 38243 9/17/85].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, September 17, 1985.

CHANGE IN THE MEETING: Additional meeting.

The following items were considered at a closed meeting held on Thursday, September 26, 1985, at 11:00 a.m.:

Institution of administrative proceeding of an enforcement nature.
institution of an injunctive action.
Litigation matter.
Regulatory matter bearing enforcement implications.

Commissioner Cox, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Douglas Michael at (202) 272-2467.

John Wheeler,

Secretary.

September 27, 1985.

[FR Doc. 85-24044 Filed 10-3-85; 4:12 pm]

BILLING CODE 8010-01-M

Federal Register

Tuesday
October 8, 1985

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 172 and 173

Packaging and Placarding Requirements for Liquids Toxic by Inhalation; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172 and 173

[Docket No. HM-196; Amdt. Nos. 172-99 and 173-190]

Packaging and Placarding Requirements for Liquids Toxic by Inhalation

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations special marking, labeling, packaging, placarding, and shipping paper requirements for certain poisonous liquids based on their potentially severe inhalation hazards.

This action is based on an assessment of the adequacy of the present regulations and a determination that improvements are necessary.

These amendments are considered necessary to improve the communication of the presence of, and packaging for, certain materials in transportation that, if released, may pose severe and immediate risks to the public, transportation workers and emergency response personnel.

EFFECTIVE DATE: These amendments are effective on January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: As a result of a release of a hazardous material identified as methyl isocyanate at a pesticide plant in Bhopal, India, on December 3, 1984, the National Transportation Safety Board (NTSB) requested that the Department re-examine its system of hazardous materials identification and classification, and to update it in accordance with current technology in order to raise the minimum level of protection provided in the Hazardous Materials Regulations. On February 7, 1985, the MTB published a Notice of Proposed Rulemaking, Docket No. HM-196; Notice No. 85-1 (50 FR 5270) proposing special packaging and communication requirements for certain poisonous liquids based on their potential inhalation hazards. An extension of time to file comments was published in the Federal Register on March 13, 1985 (50 FR 10088).

The MTB received forty-five comments regarding Notice No. 85-1. Most of the commenters were basically supportive of MTB's efforts to establish a higher level of safety for the materials addressed by the Notice. However, practically all of the commenters had specific concerns and comments regarding the proposed changes.

Three of the comments received were general in nature and did not recommend any specific changes to the regulations. Four commenters were in favor of MTB issuing a second notice of proposed rulemaking, incorporating knowledge gained from comments submitted to the current docket. MTB believes this rule is too important to delay further and does not agree that another notice of proposed rulemaking is necessary or appropriate.

Several commenters were concerned about the lack of a provision that will allow continued shipping of those materials that are presently in the transportation system. MTB agrees that sufficient time must be allowed in order for the shippers of materials affected by this final rule to bring their practices into conformance therewith. In § 173.3a(d), a priority has been established for compliance first in regard to shipments in bulk packagings (May 1, 1986) with compliance for non-bulk packagings five months late (October 1, 1986). This should provide ample time for shippers to implement the requirements of this rule.

A major concern expressed by several commenters pertained to the application of the proposal to small or limited quantities of materials. MTB agrees that this final rule should not apply to materials packaged in primary containment units of one liter or less. An exception is the labeling requirement specified in § 172.402(a)(10) which is consistent with the POISON labeling requirement for all limited quantities that meet the definition of the Poison B class. MTB believes the present shipping paper requirements for limited quantities, the POISON label which must be displayed, and small quantities of material per primary containment unit (inside package or container) justify the exclusion of limited quantity packages from the application of this final rule. In addition, § 173.4 is amended to authorize an exception of one gram quantities of liquids that are toxic by inhalation with the exception of those not authorized under § 173.4(a)(1)(iii).

One commenter suggested that the words "Poison-Inhalation Hazard" be included as part of the label which would be affixed to packages containing such materials. The commenter stated that this information would provide visibility to those having contact with the package. MTB agrees in principle with this suggestion and has amended § 172.301 to require the words "Inhalation hazard" in association (near) the required label(s) on packages. Excluded are one liter quantities as discussed above.

Several commenters stated that when "Poison by Inhalation" is a subsidiary risk identifier, the U.N. hazard class number located in the bottom quadrant of the placard should not be required. Also, the four-digit ID number should not be an integral part of the subsidiary risk "POISON" placard. MTB agrees with these commenters, and neither the display of U.N. hazard class numbers nor the four-digit ID numbering requirements have been changed by this rule.

MTB does not agree with the one commenter who recommended that §§ 176.30(a)(6), 176.30(b), 176.74, and 176.83 be amended. Paragraph (k)(4) of § 172.203 requires the words "Poison Inhalation Hazard" to be entered on the shipping paper. Since § 176.30(a)(6) and § 176.30(b) requires the information to be the same as required by § 172.203, repeating the same requirement in Part 176 is redundant. Also, special attention in § 176.74, 176.76 and 176.83 is not considered necessary in light of the requirement specified in § 176.24.

A majority of the commenters recommended that § 172.101 Table be amended to identify those materials that are subject to this rule. It is apparent that many of these commenters believe that the burden for such a determination should rest fully on MTB. Such a view raises fundamental questions concerning the basic structure of the hazardous materials transportation scheme of regulation which has been in use more than 75 years i.e., a material is, or is not, subject to regulation according to classification criteria (e.g. § 173.115 for flammable liquids) or special criteria (e.g. § 173.4 for special exceptions). It has been estimated that more than 30,000 different chemicals (including compounds and mixtures or formulations) are shipped in commerce subject to the HMR and most are not listed by name in § 172.101. In most cases it is the criteria (or descriptive definitions in certain cases) that shippers must use to determine whether materials offered for transportation are subject to the HMR.

MTB construes some of these comments as endorsing a system of preclearance, i.e., notification of MTB when a new material is to be introduced

into commerce. This would be before the first shipment in order for MTB to acknowledge the material by listing, or other means, based on the data provided by the shipper concerning the material. As a matter of practicality, this option is not viable based on the present staffing in MTB to exercise its HMR program nor would it be a desirable imposition on shippers of hazardous materials.

Several commenters suggested that special requirements in § 173.3a would be overlooked if special identifications were not provided in the § 172.101 Table for each material affected by the rule. MTB is concerned, and somewhat confused, by this view. There are a number of special requirements not specifically addressed in the Table. For example, there are special packaging requirements for shipment by aircraft in § 173.6. There are special prohibitions in § 173.21. There are also special exceptions provided in the regulations that are not addressed in the Table, e.g., § 173.3 for use of "salvage drums" and § 173.4 for small quantities. Also, it appears that several commenters based their comments on the Table alone without consideration of the rules in § 172.101 which introduce the Table and its applicability. In order to provide added clarification concerning use of the Table, a new sentence is added at the end of § 172.101(a) emphasizing the existence of other requirements in Parts 171 (e.g., § 171.12 for imported packages), Part 172, and Subparts A and B of Part 173. This emphasis also includes the applicability of new § 173.3a.

Two commenters suggested that MTB create a new hazard class for "Toxic by Inhalation" equal in status to the other hazard classes. MTB does not believe that adoption of a new hazard class is necessary to accomplish the purpose of this rule, consistent with the proposals set forth in the NPRM. As stated in the preamble of the NPRM, the entire classification scheme will be considered under Docket HM-181. In the meantime, in MTB's opinion, the U.N. criteria for inhalation toxicity hazard are the most appropriate ones for the purpose of this rulemaking.

Several commenters expressed concern about the mechanics involved in obtaining approvals for new packagings that may be required. Also, they expressed concern about the workload and time it would take to obtain an approval. MTB intends to give priority treatment to requests for approval—in particular those presenting data usable for comparison with materials addressed by specific packaging provisions in Part 173 (other than n.o.s. packagings). In addition, elimination of packagings of one liter or less from the packaging requirements will relieve the approval burden to some degree. Also, the priority specified for implementation, as specified in § 173.3a(d), will serve to distribute the approvals burden over a longer period of time.

A few commenters stated that the Poison A packaging is too restrictive and that the proposed rules "go too far" and that they fail to consider the success of current practices. MTB recognizes that there are other packagings which have been used for several years that can be safely used for materials that are toxic by inhalation. For example, Specification 51 portable tanks and DOT-5 series drums are packagings that have an excellent safety record. Such packagings will be fully considered for approval by MTB pursuant to § 173.3a(a)(3).

One commenter stated that: (1) The MTB's proposed categorization of these materials appears to be more restrictive than that permitted by ICAO; (2) cargo aircraft shipment should be permitted for "Poison-Inhalation-Hazard" materials, particularly for small quantities (up to 1 liter or 1 kg); and (3) for small quantity research items, shippers should have the option of assuming that an item is a "Poison-Inhalation-Hazard" without actually having the LC_{50} data. The answers to this commenter are: (1) ICAO's criteria of whether a material is forbidden, or if permitted, the quantities permitted are based on a basic philosophy summarized in Table S-2-7 in the supplement of the Technical Instruction. Without printing the Table, the general rule is that any 6.1, Group I liquid, that is in Group I by virtue of inhalation hazard, is forbidden on both passenger and cargo aircraft. It is true that ICAO permits cargo aircraft shipment of some materials which may be subject to this rule because of their inhalation hazard. However, based on our participation in ICAO deliberations, we are certain that ICAO would have listed these as forbidden/forbidden if they had known that the material presented such a hazard, because the general rules in Table S-2-7 would have been applied. This was not done because ICAO has no way to tell from the UN listing of a material that it has been placed in Group I because of an inhalation hazard as opposed to an oral or dermal hazard. Once data on the inhalation hazard of these materials is available, we believe ICAO will forbid them on cargo aircraft. Methyl isocyanate will be forbidden on cargo aircraft with publication of the 1986 edition of the ICAO Technical Instructions; (2) MTB did not propose to change column (6) of the § 172.101 Table for materials subject to this rule; and (3) in § 172.402(h) provisions are already provided for shipment of samples for laboratory analysis.

Several commenters suggested that MTB establish certain reference sources for obtaining published LC_{50} data to limit the scope of the required literature search. Some of the commenters went on to suggest that the current edition of the NIOSH's "Registry of Toxic Effects of Chemical Substances (RTECS)" be used as the reference source. While MTB agrees that RTECS is a recommended source for obtaining LC_{50} data and uses it as the principle reference source, MTB does not wish to limit the reference sources to a few publications. We will accept use of credible LC_{50} data from any published reference. To avoid causing unnecessary confusion, the wording in § 173.3a(c)(4) is amended to reflect this view.

The recommendation that the definition of Poison A in § 173.326 be amended is not adopted. MTB does not find any immediate need to amend § 173.326. This section was not addressed in the proposal, nor did we receive any constructive suggestions on how it should be amended.

Three commenters suggested that a distinction (or clarification) be made between systemic poisoning and corrosive poisoning (poisoning due to destruction of tissue). This is not an easy task. As a safety issue, it is the end result that matters, not the precise mechanism by which the results are incurred. Therefore, MTB considers "Poison-Inhalation Hazard" to include both systemic and corrosive poisoning. The same commenters raised the question of how to convert LC_{50} data based on other than one hour exposure tests into one hour exposure values. They went on to suggest that for systemic poisoning the conversion factor should be based on the equation: Total dose = dosage × length of exposure. For example, LC_{50} values based on 4 hour exposure should be converted to one hour value by multiplying the LC_{50} (4 hour) value by 4, not 2 as proposed in the NPRM. They indicate that the same conversion factor (or straight line conversion) is not applicable to the LC_{50} values due to corrosive poisoning. MTB agrees with the reasoning for corrosive poisoning but disagrees with the 4 hour conversion factor for systemic poisoning. As stated in the NPRM, the criteria for inhalation toxicity came from the UN and is a result of several years

of intense work in which the U.S. (including industry) participated. Without any thorough evaluation, it is not prudent to arbitrarily create new criteria which certainly will cause more problems. The MTB is aware of the controversy and difficulties in using a conversion factor of two to convert an LC_{50} value based on 4 hour exposure to an LC_{50} value based on one hour exposure. This method is even more difficult to apply to LC_{50} values based on exposure times less than one hour or longer than 4 hours. However, the majority of LC_{50} data published are either based on one hour or 4 hour exposure times. All things considered, the UN criteria remains most appropriate for the purpose of this rulemaking. With regard to corrosive poisoning, MTB's position is that the only meaningful LC_{50} value is that obtained with one hour exposure time. MTB knows of no meaningful conversion method.

One commenter suggested that more exact test parameters be established to promote uniformity of LC_{50} testing. The same commenter recommended the use of the test procedure described in the Organization for Economic Cooperation and Development (OECD) for Acute Inhalation Toxicity. MTB has reviewed the OECD procedure and agrees with the commenter that, with minor modification, the OECD's procedure be used when conducting LC_{50} testing. The OECD procedure requires at least a four hour exposure period which is not as appropriate for transportation as for other situations. For transportation purposes the exposure time need not be greater than one hour and § 173.3a(c)(1) reflects this view.

Four commenters suggested that the definition of "Saturated Vapor Concentration" and the method of calculating it from vapor pressure data be elaborated on for clarification. MTB agrees with the suggestions and has amended §§ 173.3a(b)(2) and 173.3a(c)(2) accordingly.

More than one hundred chemicals were mentioned by the commenters as possibly being subject to this rule. MTB has reviewed those chemicals mentioned, using RTECS and other available literature, and has identified at least 36 that are considered to be subject to this rule. They are—

Acetone cyanohydrin
Acrolein, inhibited
Allyl alcohol
Allylamine
Bromine trifluoride
n-Butylisocyanate
Chlorine trifluoride
Chloroacetonitrile
Chloropicrin
Crotonaldehyde
Dimethyl hydrazine, unsymmetrical
Ethyl chloroformate
Ethyl isocyanate
Ethylene chlorohydrin
Ethyleneimine
Isopropyl chloroformate
Mesitylene
Methacrylonitrile
Methyl bromide
Methyl chloroformate
Methyl chloromethyl ether
Methyl hydrazine
Methyl isocyanate
Monochloroacetic acid, liquid
Nickel carbonyl
Nitric acid, red fuming
t-Octylmercaptan
Pentaborane
Phosphorus oxychloride
Phosphorus trichloride
Propionitrile
n-Propyl chloroformate
Tetramethoxy silane
Tetranitromethane
Titanium tetrachloride
Trimethoxy silane

Among these chemicals, eleven are not specifically listed by name in the § 172.101 Table and would be shipped using generic n.o.s. proper shipping names such as "Flammable liquid, n.o.s.", or "Poison B liquid, n.o.s." etc. The remaining 25 chemicals in the list are specifically listed by name in the § 172.101 Table. Four of them refer to § 173.119, and two of them refer to § 173.346, as the packaging requirements. MTB considers those packaging requirements to be deficient for reasons described in the NPRM. To remedy this, Column 5(b) of the § 172.101 Table has been amended by adding § 173.3a respectively for those six chemicals to require more restrictive packaging requirements. These amendments are not meant to imply that other materials are not subject to this rule. Also, the reason for leaving the § 173.119 or § 173.346 packaging requirements in the Table is to provide packaging requirements for mixtures and solutions of these chemicals which do not meet the inhalation hazard criteria of this rule (see § 172.101(c)(11)).

The following is a section-by-section summary of the amendments:

Amendments to Part 172

Section 172.101. A sentence, which did not appear in the Notice, is added to paragraph (a) to inform users of the regulations that not all requirements of general applicability are found in the references in the Hazardous Materials Table. A reference to § 173.3a has been added in column (5)(b) of the Hazardous Materials Table for 6 materials to inform shippers that these materials may not be packaged in all of the packagings provided in § 173.119 and § 173.346. However, those packagings may be suitable for certain mixtures or solutions of these materials that pose risks lower than concentrations making them subject to this rule;

Section 172.203(k)(4). The reason for adding this paragraph was discussed in the Notice. This section has been changed because commenters informed MTB that the original wording was ambiguous;

Section 172.301(a). This paragraph has been amended to require packagings over one liter and no greater than 110 gallons capacity to be marked "Inhalation Hazard" in association with the required label(s);

Section 172.402(a)(10). MTB is adding a new subparagraph requiring display of POISON labels, in addition to any other label required, for packages containing materials meeting the criteria specified in § 173.3a(b)(2);

Section 172.504(c). The revised sentence in this section has been changed slightly, for clarity, from that proposed in the Notice;

Section 172.505. In agreement with the suggestions of several commenters, a provision has been added to indicate that duplication of POISON placards is not required nor display of UN class numbers at the bottom of additional placards.

Amendments to Part 173

Section 173.3a. A subparagraph has been added to § 173.3a(a)(2) to except materials addressed in paragraph (b)(1) and (b)(2) of this section from the packaging requirements of (a)(1) and (a)(3) of the section when packaged in basic containment units having a rated capacity of one liter or less.

Some commenters said the wording in (b)(2) of this section was not clear and they were unable to tell whether "that value" referred to the LC_{50} value or the saturated vapor concentration. The wording has been changed to make it clear that it is the LC_{50} value.

Paragraph (c)(1) has been changed to incorporate a reference to the procedure of the Organization for Economic Cooperation and Development (OECD) as was requested by one commenter.

Paragraph (c)(2) has been expanded to provide more detail on the method of calculating the saturated vapor concentration from the vapor pressure of a material at 20 °C, as was suggested by some commenters.

It was pointed out by one commenter that the use of a multiplying factor to convert an LC_{50} based on a 4 hour

exposure to an LC_{50} equivalent to a one hour exposure is not valid for a material which causes death by direct pulmonary effect, as opposed to one which acts by systemic poisoning. A clarification has been included in (c)(3).

Paragraph (c)(4) has been changed to mention the RTECS as a source of LC_{50} data.

Paragraph (c)(5) has been added to authorize the use of a limit test instead of a precise LC_{50} determination when no data are available in the literature or when the data in the literature are questionable. This provision will reduce the number of test animals that must be used to accomplish the purpose of this rule.

Paragraph (d) has been added to specify a compliance date for bulk packagings, a later compliance date for non-bulk packaging, and to allow two years for determination of applicability based on a 48 hour rather than 14 day observation period.

The Research and Special Programs Administration has determined that this regulatory amendment is not a major rule under the terms of Executive Order 12291 but is a significant rule under DOT's regulatory procedures (44 FR 11034). This final rule does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4231, et seq.). A regulatory evaluation is available for review in the Docket.

Based on information available concerning size and nature of entities likely to be affected, I certify under the criteria of the Regulatory Flexibility Act that these amendments will not, as promulgated, have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, 49 CFR Parts 172 and 173 are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, unless otherwise noted.

2. In § 172.101, paragraph (a) is amended by adding a sentence at the end, and the Hazardous Materials Table is amended by revising certain entries, to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

(a) * * * However, those references do not include other requirements having general applicability such as those specified in Parts 171 and 172, and Subparts A and B of Part 173, of this Subchapter.

§ 172.101 Hazardous Materials Table

+ EAW	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quality in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other requirements
1	2	3	3(a)	4	5(a)	5(b)	6(a)	6(b)	7(a)	7(b)	7(c)
	REVISE										
E	Acetone cyanohydrin (RQ-10/4.54).	Poison B	UN1541	Poison	None	173.346 173.3a	Forbidden	55 gallons	1	5	Shade from radiant heat. Stow away from corrosive materials.
E	Allyl alcohol (*RQ-100/45.4*)	Flammable liquid	UN1098	Flammable liquid and poison.	None	173.119 173.3a	1 quart	10 gallons	1,2	1	
	n-Butyl isocyanate	Flammable liquid	UN2485	Flammable liquid and Poison.	None	173.119 173.3a	1 quart	10 gallons	1,2	1	
E	Crotonaldehyde (*RQ-100/45.4*).	Flammable liquid	UN1143	Flammable liquid and Poison.	None	173.119 173.3a	1 quart	1 gallon	1,2	1	
	Ethylene chlorohydrin	Poisn B	UN1135	Poison	173.345	173.346 173.3a	1 quart	55 gallons	1,2	1	Segregation same as for flammable liquids
	Methyl isocyanate	Flammable liquid	UN2480	Flammable liquid and Poison.	None	173.119 173.3a	Forbidden	10 gallons	1	5	Keep cool. Stow away from living quarters and sources of heat.

3. In § 172.203, paragraph (k)(4) is added to read as follows:

§ 172.203 Additional description requirements

* * * * *

(k) * * *

(4) If the inhalation toxicity of any material falls within the criteria specified in § 173.3a(b)(2) (subject to definitions and implementation conditions of (c) and (d) of the same section), the words "Poison-Inhalation Hazard" shall be entered on the shipping paper in association with the shipping description. However, the word "Poison" need not be repeated if it is entered as part of the basic description or in conformance with paragraph (k)(2) of this section. This paragraph does not apply to packagings having primary containment units of one liter capacity or less.

* * * * *

4. In § 172.301, paragraph (a) is amended by adding two sentences at the end to read as follows:

§ 172.301 General marking requirements

(a) * * * In addition, if the inhalation toxicity of any material in a package falls within the criteria specified in § 173.3a(b)(2), the package shall be marked "Inhalation Hazard" in association with the required label(s). This additional marking requirement does not apply to packaging having primary containment units of one liter capacity or less and to packagings of greater than 110 gallons capacity.

* * * * *

5. In § 172.402, paragraph (a)(10) is added to read as follows:

§ 172.402 Additional labeling requirements

(a) * * *

(10) A material falling within the inhalation hazard criteria described in § 173.3a(b)(2) shall be labeled with a POISON label in addition to any other label(s) required by this section. Duplication of the POISON label is not required.

* * * * *

6. In § 172.504, the last sentence in paragraph (c) is revised to read as follows:

§ 172.504 General placarding requirements.

* * * * *

(c) * * *. This paragraph does not apply to portable tanks, cargo tanks, tank cars, transportation by air or water, or transport vehicles and freight containers subject to § 172.505.

* * * * *

7. In Part 172, a new § 172.505 is added to read as follow:

§ 172.505 Special placarding requirements for certain poisonous materials.

Each transport vehicle and freight container that contains a material subject to the "Poison-Inhalation Hazard" shipping paper description of § 172.203(k)(4) must be placarded POISON on each side and each end in addition to the placards required by § 172.504. This requirement also applies to portable tanks. Duplication of POISON placards is not required nor display of UN class numbers at the bottom of additional placards required by this section.

PART 173—SHIPPING—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

8. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806; 49 CFR 1.53, unless otherwise noted.

9. In Part 173, a new § 173.3 a is added to read as follows:

§ 173.3a Packaging; special requirements for certain poisonous materials.

(a) Nothwithstanding the packaging requirements and authorizations referred to in paragraph (b)(1) of this section (including exemptions referring thereto), no person may offer for transportation a material addressed by those sections that also meets the criteria of paragraph (b)(2) of this section except in a packaging—

(1) Specified in Subpart H of this part for any Poison A material if the packaging is made of materials that are chemically compatible with the hazardous materials;

(2) The basic containment unit of which has a rated capacity of one liter or less and that is otherwise offered for transportation in conformance with this Chapter; or

(3) Approved by the Associate Director for HMR based on a determination that the packaging provides a level of safety equivalent to a packaging authorized in this Chapter for Poison A materials, or to packagings authorized for a hazardous material having similar hazards addressed by a specific packaging regulation of this part.

(b) This section applies to any liquid material other than a liquefied compressed gas—

(1) Addressed by the Table in § 172.101 (Column 5b) of this subchapter to a packaging requirement prescribed in §§ 173.119, 173.125, 173.134, 173.154, 173.221, 173.254, 173.249, 173.346, or 173.352, or which is addressed by an exemption, issued under Subpart B of Part 107 of this chapter, that refers to one or more of those section for the purpose of packaging authorization; and

(2) Having a saturated vapor concentration at 20°C(68°F) equal to or greater than ten times its LC_{50} (vapor) value if the LC_{50} value is 1000 parts per million (ppm) or less.

(c) For the purposes of this section—

(1) LC_{50} means the concentration of vapor that, when administered by continuous inhalation of both male and female young albino rats for one hour, is most likely to cause death within 14 days to one half of the animals tested. The result is expressed in milliliters per cubic meter of air (ppm). Wherever practicable, the test should be conducted in accordance with the procedure described in the Organization for Economic Cooperation and Development (OECD) for Acute Inhalation Toxicity except that the periods of exposure shall be one hour instead of four hours.

(2) Saturated vapor concentration (SVC) means the concentration of vapor at equilibrium with the liquid phase at 20°C(68°F) and standard atmospheric pressure expressed in milliliters per cubic meter (expressed in ppm). This concentration may be calculated from the vapor pressure (VP) of the liquid at 20°C(68°F). The general formula is the vapor pressure divided by the standard atmospheric pressure and multiplied by a million. If the vapor pressure is expressed in millimeters (mm) of mercury the calculation would be

$$\frac{VP(\text{in mm Hg})}{760} \times 10^6 = SVC \text{ (in ppm)}$$

(3) If LC_{50} data are available based on other than a one hour exposure, a factor may be used to determine an acceptable one hour value for the purposes of this section. If the only value available is for a 4 hour exposure, that value is multiplied by 2. This method of estimating a LC_{50} value may not be used when a material causes death by direct pulmonary effect, i.e., by destruction of lung tissue as opposed to systemic poisoning. For these corrosive poisons, the exposure period must be one hour.

(4) LC_{50} data published in scientific and technical handbooks, journals and texts may be used in place of new tests using animals to determine compliance with this section. Where different values for the LC_{50} of a material are found, the most credible value must be used. The Registry of Toxic Effects of Chemical Substances (RTECS) published by NIOSH is a recommended source of these data.

(5) *Limit test.* As an alternative to determine a LC_{50} value, the following procedure may be used to determine whether a material is subject to this section: The saturated vapor concentration at 20°C(68°F) is determined as in paragraph (c)(2) of this section. This then is divided by 10 and the resulting concentration used to test 10 animals in accordance with the OECD procedure noted in paragraph (c)(1) of this section, with a one hour exposure period. If 5 or more animals die during the 14 day observation period, the material is subject to this section. For example: If a liquid has a saturated vapor concentration of 500 ppm at 20°C, the concentration used in the test outlined in this paragraph would be 50 ppm.

(d) The requirements of this section, and other requirements of this subchapter referring to this section for application, are effective as follows:

(1) Transportation in packagings having capacities greater than 110 gallons after April 30, 1986.

(2) Transportation in packaging having capacities of 110 gallons or less after September 30, 1986.

(3) Until January 1, 1988, LC_{50} or limit test data based on a 48 hour observation period may be used in place of a 14 day observation period.

10. In § 173.4, paragraph (a)(1)(iii) is revised to read as follows:

§ 173.4 Exceptions for small quantities.

(a) * * *

(1) * * *

(iii) One (1) gram for authorized materials classed as Poison B or subject to the "Poison-Inhalation Hazard" shipping paper description requirements of §172.203(k)(4); and

* * * * *

Issued in Washington, D.C. on October 3, 1985 under authority delegated in 49 CFR Part 1, Appendix A.

M. Cynthia Douglas,

Acting Director Materials Transportation Bureau.

[FR Doc. 85-23977 Filed 10-7-85; 8:45 am]

BILLING CODE 4910-60-M

Federal Register

Tuesday
October 8, 1985

Part III

Office of Management and Budget

Budget Deferrals; Notices

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 two new deferrals of budget authority for 1985 totaling $10,438,657 and two revised deferrals now totaling $1,433,548,866. The deferrals affect accounts in Funds Appropriated to the President and the Departments of Health and Human Services and State.

The details of these deferrals are contained in the attached report.

Ronald Reagan,

THE WHITE HOUSE,

October 1, 1985.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL #	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President	
	International Security Assistance	
D85-2C	Economic support fund	1,428,000
	Department of Health and Human Services	
	Alcohol, Drug Abuse, and Mental Health Administration	
	Construction and renovation, St. Elizabeths	
D85-76	Hospital	8,439
	Office of the Assistant Secretary for Health	
	Scientific activities overseas (special	
D85-8B	foreign currency program)	5,549
	Department of State	
	Assistance for Implementation of a	
D85-77	Contadora Agreement	2,000
	Total, deferrals	1,443,988

SUMMARY OF SPECIAL MESSAGES
FOR FY 1985
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Twelfth special message:		
New items	---	10,439
Revisions to previous special messages	---	1,433,549
Effects of twelfth special message	---	1,443,988
Amounts from previous special messages that are changed by this message (changes noted above)	---	4,180,746
Subtotal, rescissions and deferrals	---	5,624,734
Amounts from previous special messages that are not changed by this message	1,843,315	11,158,551 1/
Total amount proposed to date in all special messages	1,843,315	16,783,285

1/ This amount includes $170 million transmitted by the Comptroller General on June 24, 1985, for the General Services Administration.

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D85-2B transmitted to the Congress on January 4, 1985.

This revision to a deferral of Funds Appropriated to the President for Economic support increases the amount previously reported as deferred from $4,179,732,508 to $5,607,732,508. Of this amount, $4,247,341,000 has been released for obligation. This net increase of $1,428,000,000 is attributable to funds provided in the Second Supplemental Appropriations Act, 1985 (P.L. 99-88), that are deferred pending approval of specific grants and loans by the Secretary of State.

Deferral No:*D85-2C

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority.....** *$2,258,000,000 (P.L. 99-88)
Bureau: International Security Assistance	**Other budgetary resources** 18,000,000
Appropriation title and symbol: Economic Support Fund 2/ *115/61037 1151037 *115/71037 11X1037 114/51037	**Total budgetary resources** *$2,276,000,000 1/
	Amount to be deferred: Part of year ____ Entire year *$1,428,000,000
OMB Identification code: 11-1037-0-1-152	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [*X] Multiple-year 9/30/86; 9/30/87 (expiration date) [ ] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

*Coverage

Appropriation	Symbol	Identification Code	Amount Deferred
Economic Support Fund	115/61037	11-1037-0-1-152	1,258,000,000
Economic Support Fund	115/71037	11-1037-0-1-152	170,000,000
Economic Support Fund	114/51037	11-1037-0-1-152	280,500,000
Economic Support Fund	1151037	11-1037-0-1-152	3,826,000,000
Economic Support Fund	11X1037	11-1037-0-1-152	73,232,508
			5,407,732,508

Justification: *Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. P.L. 99-88 provides $2,258,000,000 in supplemental appropriations of grant Economic Support Funds to enable the President to carry out those authorities. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. These functions are exercised in cooperation with the Administrator of the Agency for International Development. Funds totaling $1,428,000,000 are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds. Of this amount, $170,000,000 are deferred pending approval of specific grants to Jordan with no more than a third to be disbursed before October 1, 1985, as specified in P.L. 99-88. To date, $253,141,000 has been released for obligation to countries other than Jordan. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ Only accounts affected by deferral D85-2C.

2/ This account was the subject of similar deferrals in 1984 (D84-24A, D84-60, and D84-66).

* Revised from previous report

Deferral No: D85-76

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Dept. of Health and Human Services	New budget authority..... $ _____ (P.L. _____)
Bureau: Alcohol, Drug Abuse, and Mental Health Administration	Other budgetary resources 11,943,665
Appropriation title and symbol: Construction and Renovation, St. Elizabeths Hospital 75X1312	Total budgetary resources 11,943,665
	Amount to be deferred: Part of year $ _____
	Entire year 8,438,657
OMB identification code: 75-1312-0-1-551	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: The St. Elizabeths Hospital construction and renovation program of the Department of Health and Human Services is funded with appropriations that remain available until expended. Funds for this program are used for the repair and improvement of the St. Elizabeths Hospital facilities. The amount of funds to be deferred for the entire year was determined after reviewing the estimated completion date and cost of all construction and renovation projects. The amount being deferred is excess to 1985 program requirements and is being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 1512) and for expenditure in succeeding years.

Estimated Program Effect: None

Outlay Effect: None

D85-8B

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D85-8A transmitted to the Congress on January 4, 1985.

This revision of a deferral for the Scientific Activities Overseas Program of the Department of Health and Human Services increases the previously reported deferral amount from $1,013,378 to $5,548,866, an increase of $4,535,488. The amount being deferred is excess to current program requirements.

Deferral No: *D85-88

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $ _____ (P.L. _____)
Bureau: Office of Assistant Secretary for Health	Other budgetary resources * 12,948,866
Appropriation title and symbol: Scientific Activities Overseas (special foreign currency prog.) 1/ 75X1102	Total budgetary resources * 12,948,866
	Amount to be deferred: Part of year $ _____
	Entire year * 5,548,866
OMB Identification code: 75-1102-0-1-552	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: *The Scientific activities overseas program is funded with appropriations of excess foreign currencies owned by the United States. The currencies of Burma, Guinea, India, and Pakistan held by the Treasury have been designated as excess to normal U.S. needs in 1984 and are expected to be excess in 1985. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during 1985 and the amount to be deferred for the entire year were determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in 1985. The amount being deferred is excess to current program requirements and is being reserved under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-9A).

* Revised from previous report.

Deferral No: D85-77

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State	New budget authority..... $ 2,000,000 (P.L. 99-88)
Bureau: Other	Other budgetary resources _____
Appropriation title and symbol: Assistance for Implementation of a Contadora Agreement 19X0526	Total budgetary resources 2,000,000
	Amount to be deferred: Part of year $ 2,000,000
	Entire year _____
OMB Identification code: 19-0526-0-1-153	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: The 1985 Second Supplemental Appropriations Act (P.L. 99-88) provides $2,000,000 for payment by the Secretary of State for the expenses arising from implementation by the Contadora nations (Mexico, Panama, Colombia, and Venezuela) of an agreement among the countries of Central America based on the Contadora Document of Objectives of September 9, 1983. These funds have been deferred until such time as the required agreement has been made and funds are needed for peacekeeping, verification, and monitoring systems. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

[FR Doc. 85-23931 Filed 10-7-85; 8:45 am]
BILLING CODE 3110-01-C

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 23 new deferrals of budget authority for 1986 totaling $1,628,765,311. The deferrals affect accounts in Funds Appropriated to the President, the Departments of Agriculture, Defense—Military, Defense—Civil, Energy, Health and Human Services, Justice, and State, the Pennsylvania Avenue Development Corporation, and the Railroad Retirement Board.

The details of these deferrals are contained in the attached report.

Ronald Reagan,

THE WHITE HOUSE,
October 1, 1985.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL #	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President	
	Appalachian Regional Development Programs	
D86-1	Appalachian regional development programs...	10,000
	Department of Agriculture	
	Forest Service	
D86-2	Expenses, brush disposal.....	77,913
D86-3	Timber salvage sales.....	22,854
	Department of Defense-Military	
D86-4	Military Construction, all services.....	353,079
	Department of Defense-Civil	
	Wildlife Conservation, Military Reservations,	
D86-5	Wildlife conservation.....	1,168
	Department of Energy	
	Energy Programs	
D86-6	Fossil energy research and development.....	9,247
D86-7	Fossil energy construction.....	7,038
D86-8	Naval petroleum and oil shale reserves.....	155,668
D86-9	Energy conservation.....	9,880
D86-10	SPR petroleum account.....	536,958
D86-11	Alternative fuels production.....	1,149
	Power Marketing Administration,	
	Southeastern Power Administration,	
D86-12	Operation and maintenance.....	25,344
	Southwestern Power Administration,	
D86-13	Operation and maintenance.....	5,000
	Western Area Power Administration,	
	Construction, rehabilitation, operation	
D86-14	and maintenance.....	27,095
	Departmental Administration	
D86-15	Departmental administration.....	8,501
	Department of Health and Human Services	
	Office of Assistant Secretary for Health	
	Scientific activities overseas (special	
D86-16	foreign currency program).....	3,000
	Department of Justice	
	Bureau of Prisons	
D86-17	Buildings and facilities.....	20,000
	Office of Justice Programs	
D86-18	Crime victims fund.....	100,000
	Department of State	
	Bureau of Refugee Programs	
	United States emergency refugee and	
D86-19	migration assistance fund, executive.....	18,082
	Other	
	Assistance for implementation of a	
D86-20	Contadora agreement.....	2,000
	Department of Transportation	
	Urban Mass Transportation Administration	
D86-21	Discretionary grants.....	223,600
	Other Independent Agencies	
	Pennsylvania Avenue Development Corporation	
D86-22	Land acquisition and development fund.....	10,947
	Railroad Retirement Board	
	Milwaukee Railroad Restructuring	
D86-23	Administration.....	243
	Total, deferrals.....	1,628,765

SUMMARY OF SPECIAL MESSAGES
FOR FY 1986
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
First special message:		
New items.....	---	1,628,765
Revisions to previous special messages.....	---	---
Effects of first special message.....	---	1,628,765
Amounts from previous special messages that are changed by this message (changes noted above).....	---	---
Subtotal, rescissions and deferrals.....	---	1,628,765
Amounts from previous special messages that are not changed by this message.....	---	---
Total amount proposed to date in all special messages.....	---	1,628,765

Deferral No: D86-1

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority..... $ _____ (P.L. ___)
Bureau: Appalachian Regional Dev. Programs	Other budgetary resources 10,000,000
Appropriation title and symbol: Appalachian Regional Development Programs 1/ 11X0090	Total budgetary resources 10,000,000
	Amount to be deferred: Part of year $ _____
	Entire year 10,000,000
OMB Identification code: 11-0090-0-1-452	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other _____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: This appropriation provides funds for the Appalachian Regional Commission's highway, area development, and research and local development district support activities. The Appalachian Regional Commission was established as a temporary program. Continuation of this program reflects outdated regional targeting of economic development and serves no national interest. Consequently, the President's 1986 Budget proposed that the Commission be terminated on September 30, 1985. Funds associated with non-highway activities would be deferred to pay the termination costs.

Estimated Program Effect: This deferral action would provide for costs associated with closing down the Appalachian Regional Commission.

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1985 (D85-1).

Deferral No: D86-2

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	New budget authority..... $ 48,026,000 (16 U.S.C. 490)
Bureau: Forest Service	Other budgetary resources 77,922,778
Appropriation title and symbol: Expenses, brush disposal 1/ 12X5206	Total budgetary resources 125,948,778
	Amount to be deferred: Part of year $ _____
	Entire year 77,912,778
OMB Identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: Purchasers of National Forest timber are required to deposit the estimated cost to the Forest Service for disposing of brush and other debris resulting from timber cutting operations pursuant to 16 U.S.C. 490. The deposits becoming available in the current year are estimated and the related disposal operations are planned for the following year. Efficient program planning and accomplishment is facilitated by operating a stable program well within the funds available in any one year for this purpose. Much of the brush disposal work for which fees are collected cannot be done in the same year because of weather conditions or because harvesting is not completed. The Forest Service is planning for a stable year-to-year program which will require $48.0 million in 1986. The current fiscal year reserve of $77.9 million is established pursuant to the provisions of the Antideficiency Act (31 U.S.C. 1512) as a reserve for contingencies.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-5 and D85-5A).

Deferral No: D86-3

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau:
Forest Service
Appropriation title and symbol:
Timber salvage sales 1/
12X5204

OMB Identification code:
12-9922-0-2-302
Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 17,853,000
(P.L. 94-588; 16 U.S.C. 472a(h))
Other budgetary resources 22,858,712
Total budgetary resources 40,711,712
Amount to be deferred:
Part of year $_____
Entire year 22,853,712
Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other_____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other_____

Justification: The Timber salvage sales fund was established under the provisions of the National Forest Management Act of 1976 to enable immediate harvesting of dead and dying trees when required by market condjtions or catastrophes. Purchasers of dead, damaged, insect-infested or downed timber are required to make monetary deposits into this fund to cover the costs associated with this activity. A contingency reserve is established undet the provisions of the Antideficiency Act (31 U.S.C. 1512) because of the time lag between the deposit of receipts in one year and the expenditure of funds for sales operations in subsequent years.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-4 and D85-4A).

Deferral No: D86-4

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Defense - Military
Bureau:
Military Construction
Appropriation title and symbol:
See Coverage Section below 2/

OMB Identification code:
See Coverage Section below 2/
Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual Sept. 30, 1986
Sept. 30, 1987
[X] Multiple-year Sept. 30, 1988 (expiration date)
[ ] No-Year Sept. 30, 1989

New budget authority..... $_____
(P.L. 98-473 .)
Other budgetary resources 3,803,018,000
Total budgetary resources 3,803,018,000 1
Amount to be deferred:
Part of year _____
Entire year 353,079,040
Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other_____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other_____

Coverage: 2/

Appropriation	Symbol	OMB Identification Code	Deferred
Military construction, Army.....	215/92050	21-2050-0-1-051	$112,787,000
Military construction, Army.....	214/82050	21-2050-0-1-051	---
Military construction, Army.....	213/72050	21-2050-0-1-051	---
Military construction, Army.....	212/62050	21-2050-0-1-051	---
Military construction, Navy.....	175/91205	17-1205-0-1-051	---
Military construction, Navy.....	174/81205	17-1205-0-1-051	1,080,000
Military construction, Navy.....	173/71205	17-1205-0-1-051	23,800,000
Military construction, Navy.....	172/61205	17-1205-0-1-051	---
Military construction, Air Force.	575/93300	57-3300-0-1-051	---
Military construction, Air Force.	574/83300	57-3300-0-1-051	---
Military construction, Air Force.	573/73300	57-3300-0-1-051	---
Military construction, Air Force.	572/63300	57-3300-0-1-051	---

Appropriation	Symbol	OMB Identification Code	Deferred
Military construction, Defense Agencies	975/90500	97-0500-0-1-051	$37,025,000
Military construction, Defense Agencies	974/80500	97-0500-0-1-051	8,126,615
Military construction, Defense Agencies	973/70500	97-0500-0-1-051	5,298,456
Military construction, Defense Agencies	972/60500	97-0500-0-1-051	7,761,969
Military construction, Army National Guard	215/92085	21-2085-0-1-051	---
Military construction, Army National Guard	214/82085	21-2085-0-1-051	---
Military construction, Army National Guard	213/72085	21-2085-0-1-051	---
Military construction, Army National Guard	212/62085	21-2085-0-1-051	---
Military construction, Air National Guard	575/93830	57-3830-0-1-051	---
Military construction, Air National Guard	574/83830	57-3830-0-1-051	---
Military construction, Air National Guard	573/73830	57-3830-0-1-051	---
Military construction, Air National Guard	572/63830	57-3830-0-1-051	---
Military construction, Army Reserve	215/92086	21-2086-0-1-051	---
Military construction, Army Reserve	214/82086	21-2086-0-1-051	---
Military construction, Army Reserve	213/72086	21-2086-0-1-051	---
Military construction, Army Reserve	212/62086	21-2086-0-1-051	---
Military construction, Naval Reserve	175/91235	17-1235-0-1-051	---
Military construction, Naval Reserve	174/81235	17-1235-0-1-051	---
Military construction, Naval Reserve	173/71235	17-1235-0-1-051	---
Military construction, Naval Reserve	172/61235	17-1235-0-1-051	---

Appropriation	Symbol	OMB Identification Code	Deferred
Military construction, Air Force Reserve	575/93730	57-3730-0-1-051	---
Military construction, Air Force Reserve	574/83730	57-3730-0-1-051	---
Military construction, Air Force Reserve	573/73730	57-3730-0-1-051	---
Military construction, Air Force Reserve	572/63730	57-3730-0-1-051	---
North Atlantic Treaty Organization Infrastructure	97X0804	97-0804-0-1-051	157,200,000
Total			$353,079,040

Justification: These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ Includes all accounts included under this appropriation title.

2/ These accounts were the subject of a similar deferral in 1985 (D85-6 and D85-6A).

Deferral No: D86-5

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Defense - Civil

Bureau: Wildlife Conservation, Military Reservations

Appropriation title and symbol:
Wildlife Conservation, Army - 21X5095
Wildlife Conservation, Navy - 17X5095
Wildlife Conservation, Air Force - 57X5095

OMB Identification code:
97-5095-0-2-303

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 1,944,000
(P.L. 16 U.S.C. 670F)
Other budgetary resources 1,265,157
Total budgetary resources 3,209,157

Amount to be deferred:
Part of year $ _____
Entire year 1,168,157

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Wildlife Conservation, Army....	21X5095	21-5095-0-2-303	$ 873,000
Wildlife Conservation, Navy....	17X5095	17-5095-0-2-303	74,428
Wildlife Conservation, Air Force	57X5095	57-5095-0-2-303	220,729
			$1,168,157

Justification: These are permanent appropriations of receipts generated from hunting and fishing fees in accordance with the purpose of the law--to carry out a program of natural resource conservation. These funds are being deferred because: (1) installations may be accumulating funds over a period of time to fund a major project, (2) the installation may be designing and obtaining approval for the project, and (3) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. Funds collected in a prior year are deferred in order to be available to finance the program during summer and fall months or in subsequent years. Additional amounts will be apportioned if program requirements are identified. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ These accounts were the subject of a similar deferral in 1985 (D85-7 and D85-7A).

Deferral No: D86-6

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy

Bureau:
Energy Programs

Appropriation title and symbol:
Fossil Energy Research and Development 1/
89X0213

OMB Identification code:
89-0213-0-1-271

Grant program: [ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 15,000,000
(P.L. 98-146)
Other budgetary resources 41,716,000

Total budgetary resources 56,716,000

Amount to be deferred:
Part of year $ _____
Entire year 9,247,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds research and development activities in coal, petroleum and unconventional gas. The FY 1985 Second Supplemental Appropriations Act (P.L. 99-88) overturned $39,154,000 of funds deferred in 1985. Those funds not disapproved are being deferred through FY 1986 or until Congress enacts an FY 1986 appropriation using these funds to offset FY 1986 requirements. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-27 and D85-27A) and rescission proposals in 1985 (R85-84 and R85-85).

Deferral No: D86-7

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy

Bureau:
Energy Programs

Appropriation title and symbol:
Fossil Energy Construction 1/
89X0214

OMB Identification code:
89-0214-0-1-271

Grant program: [ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ _____
(P.L.)
Other budgetary resources 10,038,000

Total budgetary resources 10,038,000

Amount to be deferred:
Part of year $ _____
Entire year 7,038,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds major construction projects related to Fossil Energy. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated during the months of February through December 1984. The largest recovery of $2,828,000 results from the termination of the Solvent Refined Coal-II (SRC-II) commercial scale demonstration plant. The Federal Republic of Germany (FRG), a former partner in the SRC-II Project, has paid its final share of the cost of the project and its termination. The Department of Energy has deobligated its funds which are now replaced by the FRG payment. The remaining funds represent unobligated balances in this account that are held in reserve through FY 1986 or until Congressional action on the FY 1986 budget utilizes these funds to finance the FY 1986 request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-28 and D85-28A).

Deferral No: D86-8

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy
Bureau:
Energy Programs
Appropriation title and symbol:
Naval Petroleum and Oil Shale Reserves 1/
89X0219
OMB identification code:
89-0219-0-1-271
Grant program: [ ] Yes [X] No
Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $_____
(P.L. _____)
Other budgetary resources 174,653,000
Total budgetary resources 174,653,000
Amount to be deferred:
Part of year $_____
Entire year 155,667,981
Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other_____
Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other_____

Justification: This account primarily funds activities necessary to operate, explore, conserve, develop, and produce the Naval Petroleum Reserves at the maximum efficient rate and to conserve the oil shale reserves. This deferral consists of recoveries of prior year obligations that were deferred in 1985. Funds are held in reserve through FY 1986 or until Congressional action on the FY 1986 budget utilizes these funds to finance the FY 1986 request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-29, D85-29A, and D85-29B) and a rescission proposal in 1985 (R85-86).

Deferral No: D86-9

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy
Bureau:
Energy Programs
Appropriation title and symbol:
Energy Conservation 1/
89X0215
OMB identification code:
89-0215-0-1-272
Grant program: [X] Yes [ ] No
Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $_____
(P.L. _____)
Other budgetary resources 37,843,000
Total budgetary resources 37,843,000
Amount to be deferred:
Part of year $_____
Entire year 9,880,000
Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other_____
Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other_____

Justification: This account funds a variety of energy research and development and grant programs. These programs provide support for buildings and community systems, industry, transportation, multi-sector research and state and local assistance. The deferred funds consist of recoveries of prior year obligations for projects and activities which were completed or terminated. These funds cannot be effectively used this year and will be held in reserve through FY 1986 or until Congressional action on the FY 1986 budget utilizes these funds to finance the FY 1986 request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-30, D85-30A, and D85-30B) and a rescission proposal in 1985 (R85-87).

Deferral No: D86-10

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy Bureau: Energy Programs Appropriation title and symbol: SPR Petroleum Account 1/ 89X0233 OMB identification code: 89-0233-0-1-274 Grant program: [ ] Yes [X] No	New budget authority..... $ _____ (P.L. _____) Other budgetary resources 827,028,000 Total budgetary resources 827,028,000 Amount to be deferred: Part of year $ 536,958,000 Entire year _____ Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: This account funds the acquisition and transportation costs of crude oil for the Strategic Petroleum Reserve (SPR). The present $536,958,000 deferral amount was part of the FY 1985 deferral of $827,028,000 of which $290,070,000 was overturned by the FY 1985 Second Supplemental Appropriations Act (P.L. 99-88) for the purpose of filling the SPR in FY 1986 to a total of 500 MMB. The $536,958,000 is not required in FY 1986 since the Administration does not propose to fill beyond the 500 MMB level. These funds will continue to be deferred until such time as fiscal and oil market conditions warrant their release. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-42).

Deferral No: D86-11

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy Bureau: Energy Programs Appropriation title and symbol: Alternative Fuels Production 1/ 89X5180 OMB identification code: 89-5180-0-2-271 Grant program: [ ] Yes [X] No	New budget authority..... $ _____ (P.L. _____) Other budgetary resources 1,464,000 Total budgetary resources 1,464,000 Amount to be deferred: Part of year $ _____ Entire year 1,149,000 Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: This program funds feasibility studies and cooperative agreements for the development and production of alternative fuels. The deferral consists of recoveries of prior year obligations for projects and activities which were completed or terminated. These funds cannot be effectively used during FY 1986. The FY 1986 budget proposes to transfer $1,149,000 of these funds to the Fossil energy research and development account to finance its FY 1986 requirements. Funds are held in reserve through FY 1986 or until Congressional action on the FY 1986 budget utilizes these funds to finance the FY 1986 request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a rescission proposal in 1985 (R85-93).

Deferral No: D86-12

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority**..... $_____ (P.L. _____)
Bureau: Power Marketing Administration	**Other budgetary resources** 40,089,000
Appropriation title and symbol: Southeastern Power Administration, Operation and maintenance 1/ 89X0302	**Total budgetary resources** 40,089,000
	Amount to be deferred: Part of year $_____
	Entire year 25,344,000
OMB identification code: 89-0302-0-1-271	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other_____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other_____

Justification: This account funds the marketing activities of the Southeastern Power Administration (SEPA), an agency that sells wholesale hydroelectric power produced at Corps of Engineers dams in 10 southeastern States. SEPA delivers power to its customers by using power transmission lines owned by other utilities because this agency does not own or operate any power lines. One of SEPA's principal activities is the negotiation of power sales contracts. Costs are recovered by the Federal Government, with interest, in accordance with statutory requirements. During 1984, the negotiations on several new contracts progressed at a slower pace than originally anticipated. Furthermore, the sales contracts negotiated subsequently in 1985 greatly reduced the need for Federal funding. As a result, $40,089,000 of funds appropriated previously in 1984 and 1985 will be available for use in 1986. Of this amount, only $14,745,000 will be needed for SEPA to carry out its program in 1986. The remaining funds ($25,344,000) can be deferred until 1987, as proposed by the Administration, or transferred to other accounts, as proposed in the 1986 Energy and Water Development Appropriations bill currently pending before Congress. Funds may be released in 1986 if a critical need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-16 and D85-16A) and rescission proposals in 1985 (R85-95 and R85-243).

Deferral No: D86-13

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy Bureau: Power Marketing Administration Appropriation title and symbol: Southwestern Power Administration, Operation and maintenance 1/ 89X0303 OMB identification code: 89-0303-0-1-271 Grant program: [ ] Yes [X] No	New budget authority..... $ ____ (P.L. ____) Other budgetary resources 13,774,000 Total budgetary resources 13,774,000 Amount to be deferred: Part of year $ ____ Entire year 5,000,000 Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds the activities of the Southwestern Power Administration (SWPA), an agency that markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern States. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which power is distributed to customers. In 1985, funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it. The level of unobligated funds carried into 1986 for purchasing power was $5 million higher than previously assumed. There currently is no plan to use these funds in 1986, although the funds will be released later this year if a critical need arises. If a critical need does not arise, however, the funds will be deferred until 1987. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-17 and D85-17A) and a rescission proposal in 1985 (R85-96).

Deferral No: D86-14

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy Bureau: Power Marketing Administration Appropriation title and symbol: Western Area Power Administration, Construction, rehabilitation, operation and maintenance 1/ 89X5068 OMB identification code: 89-5068-0-2-271 Grant program: [ ] Yes [X] No	New budget authority..... $ ____ (P.L. ____) Other budgetary resources 73,395,000 Total budgetary resources 73,395,000 Amount to be deferred: Part of year $ ____ Entire year 27,095,000 Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds the activities of the Western Area Power Administration (WAPA), which markets power in 15 western States from power generating projects principally operated by the Bureau of Reclamation and the Corps of Engineers. WAPA activities also include the construction, operation, and maintenance of approximately 16,000 miles of power transmission lines. Funds are available for deferral for the following reasons:

- Almost $21 million became available as a result of a change in plans for power exchanges with Pacific Gas and Electric Company.
- Over $6 million became available because contract awards for construction of power transmission facilities were lower than budgeted.

There is currently no plan to use any of these funds in 1986, although the funds will be released later this year if a critical need arises. If a critical need does not arise, however, the funds will be deferred until 1987. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-18, D85-18A, and D85-18B) and a rescission proposal in 1985 (R85-97).

Deferral No: D84-15

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy **Bureau:** Department Administration **Appropriation title and symbol:** Departmental Administration 1/ 89X0228 **OMB Identification code:** 89-0228-0-1-276 **Grant program:** [ ] Yes [X] No	**New budget authority.....** $ _____ (P.L. 98-360) **Other budgetary resources** 25,724,000 **Total budgetary resources** 25,724,000 **Amount to be deferred:** Part of year $ _____ Entire year 8,501,000 **Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: This account funds the Secretarial staff offices and centralized administrative support function of the Department of Energy. The deferral consists of unobligated prior year balances that are not currently needed. Funds will be released, as necessary, for activities authorized in the 1985 budget or when Congressional action on the FY 1986 budget utilizes these funds to finance 1986 programs. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

These funds subsequently were released for obligation.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-43).

Deferral No: D86-16

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $ _____ (P.L. _____)
Bureau: Office of Assistant Secretary for Health	Other budgetary resources 5,548,866
Appropriation title and symbol: Scientific Activities Overseas (special foreign currency prog.) 1/ 75X1102	Total budgetary resources 5,548,866
	Amount to be deferred: Part of year $ _____
	Entire year 3,000,000
OMB Identification code: 75-1102-0-1-552	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: The Scientific activities overseas program is funded with appropriations of excess foreign currencies owned by the United States. The currencies of Burma, Guinea, India, and Pakistan held by the Treasury have been designated as excess to normal U.S. needs in 1985 and are expected to be excess in 1986. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during 1986 and the amount to be deferred for the entire year were determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in 1986. The amount being deferred is excess to current program requirements and is being reserved under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-8A).

Deferral No: D86-17

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Justice	New budget authority..... $ _____ (P.L. _____)
Bureau: Bureau of Prisons	Other budgetary resources 118,316,000
Appropriation title and symbol: Buildings and facilities 1/ 115X1003	Total budgetary resources 118,316,000
	Amount to be deferred: Part of year $ _____
	Entire year 20,000,000
OMB Identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries and provide a safe and humane environment for staff and inmates. The deferral of $20,000,000 is for the Northeast Facility. These funds cannot be obligated in 1986 until design efforts and the selection of contractors are completed. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-19).

Deferral No: D86-18

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Justice Bureau: Office of Justice Programs Appropriation title and symbol: Crime Victims Fund 15X5041 OMB identification code: 15-5041-0-2-754 Grant program: [X] Yes [ ] No	New budget authority..... $ 100,000,000 (P.L. 98-473) Other budgetary resources 70,000,000 Total budgetary resources 170,000,000 Amount to be deferred: Part of year $ ____ Entire year 100,000,000 Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This appropriation is a special fund which is credited with Federal criminal fines, forfeited appearance bonds, and penalties not to exceed $100,000,000 each fiscal year. It is used to provide grants to states for crime victim compensation and assistance programs. Since FY 1985 funds will be obligated in early FY 1986, $100,000,000, which is estimated to be collected during FY 1986, is deferred until the early part of FY 1987. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D86-19

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State Bureau: Bureau for Refugee Programs Appropriation title and symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040 OMB identification code: 11-0040-0-1-151 Grant program: [ ] Yes [X] No	New budget authority..... $ ____ (P.L. ____) Other budgetary resources 18,082,000 Total budgetary resources 18,082,000 Amount to be deferred: Part of year $ 18,082,000 Entire year ____ Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: Section 501(a) of the Foreign Relations Authorization Act, 1976 (Public Law 94-141) and Section 414 (b) (1) of the Refugee Act of 1980 (Public Law 96-212) amended Section 2 (c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $50,000,000 to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for the Emergency Fund to the Secretary of State but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

The Emergency Fund contains an estimated $18,082,000 in unobligated balances from prior-year authority. These funds have been deferred pending Presidential decisions required by Executive Order No. 11922 and to achieve the most economical use of appropriations. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-20 and D85-20A).

Deferral No: D86-20

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State **Bureau:** Other	**New budget authority.....** $ ____ (P.L. ____) **Other budgetary resources** 2,000,000 **Total budgetary resources** 2,000,000
Appropriation title and symbol: Assistance for Implementation of a Contadora Agreement 1/ 19X0526	**Amount to be deferred:** Part of year $ 2,000,000 Entire year ____
OMB Identification code: 19-0526-0-1-153	**Legal authority** (in addition to sec. 1013): [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 1985 Second Supplemental Appropriations Act (P.L. 99-88) provided $2,000,000 for payment by the Secretary of State for the expenses arising from implementation by the Contadora nations (Mexico, Panama, Colombia, and Venezuela) of an agreement among the countries of Central America based on the Contadora Document of Objectives of September 9, 1983. These funds have been deferred until such time as the required agreement has been made and funds are needed for peacekeeping, verification, and monitoring systems. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-77).

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Transportation	New budget authority..... $1,100,000,000 (P.L. 97-424)
Bureau: Urban Mass Transporation Admin.	Other budgetary resources 538,375,604
Appropriation title and symbol: Discretionary Grants 69X8191	Total budgetary resources 1,638,375,604
	Amount to be deferred: Part of year $ 223,600,000
	Entire year ____
OMB identification code: 69-8191-0-7-401	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other ____
Type of account or fund:	Type of budget authority:
[ ] Annual	[ ] Appropriation
[X] Multiple-year 9/30/87; 9/30/88 (expiration date)	[X] Contract authority
[ ] No-Year	[ ] Other ____

Justification: Section 3 of the Urban Mass Transportation Act of 1964, as amended, authorizes the Secretary of the Department of Transportation to make grants for the construction, acquisition, and rehabilitation of public transportation vehicles and facilities. Congress has provided a total of $2.35 billion in contract authority for 1984 and 1985, the obligation of which has been limited to $2.345 billion in the 1984 and 1985 appropriation acts. This limitation on section 3 obligations, according to the Appropriations Committees' Conference Reports for 1984 and 1985, includes $822.0 million for "new start" projects. Of these "new start" funds, $359.0 million has been included for projects in five cities: Los Angeles ($234.4 million), Miami ($84.0 million), San Diego ($11.3 million), Jacksonville ($17.3 million), and St. Louis ($12.0 million). Through FY 1985, $135.4 million has been obligated for these projects.

The Administration has determined that the balance of $223.6 million should not be obligated since these funds would not provide sufficient resources to complete the desired "new start" projects in these five cities. More specifically, the $223.6 million would only provide about five percent of the estimated $4.0 billion needed in Federal funds to fully construct the desired "new start" projects in these cities. Given the need to reduce Federal expenditures now and in the coming years, the Federal Government cannot promise that the $3.8 billion shortfall in funding will be provided, especially since this Administration would oppose authorizations and appropriations to provide these "new start" funds. Therefore, the Administration is deferring the $223.6 million until final decisions are made on other mass transit projects for which the deferred funding can be more effectively and efficiently obligated.

Estimated Program Effect: $223.6 million will not be provided for specific "new start" projects in Los Angeles ($129.0 million), Miami ($71.5 million), San Diego ($11.3 million), Jacksonville ($1.8 million), and St. Louis ($10.0 million). These funds will be used in FY 1986 for other section 3 eligible projects.

Outlay Effect: Since the $223.6 million may be obligated later in FY 1986 than would have been the case without a deferral, some outlays estimated for fiscal years 1986 through 1988 may be delayed until fiscal years 1990 through 1992, as follows:

(in thousands of dollars)

1986 Outlay Estimate		Outlay Changes						
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991	1992
11,100	5,600	-5,500	-5,600	-22,400	---	11,200	16,800	5,500

Deferral No: D86-22

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Pennsylvania Avenue Development Corp.
Bureau:

Appropriation title and symbol:
Land Acquisition and Development Fund 1/
42X4084

OMB identification code:
42-4084-0-3-451

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ _____
(P.L. _____)
Other budgetary resources 23,746,543
Total budgetary resources 23,746,543

Amount to be deferred:
Part of year $ _____
Entire year 10,946,543

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[ ] Appropriation
[ ] Contract authority
[X] Other Borrowing Authority

Justification: This account provides borrowing authority to acquire private property for redevelopment in the Pennsylvania Avenue project area. The 1974 Pennsylvania Avenue Development Corporation (PADC) land use plan for the eastern sector of the project area was reviewed and updated in light of real estate trends and market conditions. Of available balances, $10,946,543 is deferred pursuant to the Antideficiency Act (31 U.S.C. 1512) to establish a reserve for use in specified cases where private sector resources must be supplemented to ensure that new development will be consistent with the updated eastern sector plan. PADC does not plan significant new Federally-financed land acquisition activity in the PADC corridor. However, the deferred borrowing authority for land acquisition will be released on a case-by-case basis to solve problems when development is delayed by owners declining to sell property at a fair price, title difficulties, or other causes. In most cases, PADC would purchase the property for later resale to the private sector.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1985 (D85-14).

Deferral No: D86-23

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Railroad Retirement Board
Bureau:

Appropriation title and symbol:
Milwaukee Railroad Restructuring Administration 1/
60X0108

OMB identification code:
60-0108-0-1-603

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ _____
(P.L. _____)
Other budgetary resources 243,100
Total budgetary resources 243,100

Amount to be deferred:
Part of year $ _____
Entire year 243,100

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds administrative expenses incurred by the Board in disbursing benefit payments under the Milwaukee Railroad Restructuring Act and the Rock Island Act. No administrative expenses were charged to this account in fiscal year 1985, and the Board estimates that the total amount of $243,100 will be carried forward into fiscal year 1987 or closed out at the expiration of the program. This deferral represents amounts not required for obligation in fiscal year 1986. The amount deferred is being reserved for contingencies under the provision of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-15).

[FR Doc. 85-23934 Filed 10-7-85; 8:45 am]
BILLING CODE 3110-01-C

federal register

Tuesday
October 8, 1985

Part IV

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System, Dioxin-Containing Wastes; Tentative Decision To Deny Petition for Rulemaking

Tuesday
October 4, 1988

Part IV

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System;
Identification and Listing of Hazardous
Waste; Delisting Petition for
Chemicals

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2891-8]

Hazardous Waste Management System, Dioxin-Containing Wastes

AGENCY: Environmental Protection Agency.

ACTION: Tentative decision to deny petition for rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is today issuing a tentative decision to deny a petition from Vulcan Materials Company requesting that EPA amend its rule listing certain dioxin-containing wastes as acute hazardous wastes. EPA's tentative decision to deny the petition is based on the Agency's reexamination of a health study underlying this portion of the rule, which study was challenged by the petitioner. It is the Agency's tentative conclusion that the study can appropriately be used to support the regulation. Therefore, the Agency will not modify the rule as suggested by the petitioner.

DATES: EPA will accept public comment on this tentative decision to deny the petition until November 7, 1985.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or delivered to the RCRA Docket located in Room S-212, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. The RCRA Docket is available for viewing from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays. Communications should identify the regulatory docket number "Section 3001 HxCDD wastes".

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free, at (800) 424-9346 or at (202) 382-3000 in Washington, D.C. For technical information contact Dr. Judith S. Bellin, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-4789.

SUPPLEMENTARY INFORMATION: Vulcan Materials Company (Vulcan) has filed a rulemaking petition with the Agency requesting that EPA amend its rule listing certain dioxin-containing wastes resulting from the production or manufacturing use of pentachlorophenol as acute hazardous wastes subject to special management standards. 40 CFR 261.31 (Hazardous Wastes F021 and F027), 50 FR 1978 (January 14, 1985). Vulcan requests that the wastes be listed as toxic, rather than acute hazardous wastes, and that they be subject only to the standards applicable to toxic hazardous wastes (and therefore not subject to the additional management standards for certain dioxin-containing hazardous wastes).

The Agency listed these wastes as acute hazardous wastes primarily because they contain substantial concentrations of the potent carcinogens hexachlorodibenzo-*p*-dioxins ("HxCDDs"). See 50 FR at 1980, 1987; see also 40 CFR 261.11(a)(2). Imposition of the special management standards was premised not only on this fact, but also on a history of mismanagement of these wastes (or very closely-related wastes), and the mobility, persistence, and bioaccumulation potential of the wastes' hazardous constituents. 50 FR at 1987. Vulcan maintains that the underlying basis for many of these conclusions is incorrect because the bioassay establishing the carcinogenicity of HxCDDs (conducted by the National Cancer Institute in 1980 [1]) is too flawed to be useful. As support, they submitted a detailed audit of the bioassay ("Schoenig audit" [2]) which was sharply critical of the procedures used in conducting the study, and also questioned the pathology interpretation portion of the study.

EPA has reviewed the Schoenig audit with care. In addition, the Agency commissioned the Dynamac Corporation to perform an independent audit of the NCI study, and the Agency also carefully reviewed the results of this second audit ("Dynamac audit" [3]). It is EPA's tentative decision, after studying both of these audits, that the NCI study, though not perfect, remains a valid study that can appropriately be used to assess the carcinogenic potential and potency of HxCDD. The basis for this tentative conclusion is set out in a detailed response [4] to comments raised in the Schoenig and Dynamac audits. (This document is available in the public docket.)

EPA also requested and obtained an evaluation of the Schoenig audit from Dr. John Doull of the EPA Science Advisory Board. Dr. Doull's evaluation [5] (also available in the public docket) fully supports EPA's tentative decision. He stated that "replicating the HxCDD bioassay would not change the major conclusion concerning the carcinogenicity of HxCDD." In reaching this conclusion, he addressed the specific points raised by the Schoenig audit, rejecting the conclusion that the study could not validly be used.

EPA also notes that its conclusion that additional management standards are appropriate for these wastes has been reinforced by recent reports documenting current HxCDD and HxCDF contamination of ground water, soil, and POTW sludge resulting from a leak occurring in the mid 1970's from Southern California Edison Company's pole treating facility, which facility used pentachlorophenol and creosote as the treating agents. The damage incident not only confirms the persistence of these constituents in a variety of media, but shows their mobility (including ability to migrate to ground water) as well.

In light of our review of the HxCDD bioassay, and information on HxCDD's mobility and persistence, it is EPA's tentative decision to deny the petition for rulemaking. Pursuant to 40 CFR § 260.20(c), EPA will accept comment for 30 days on its tentative decision not to grant the petition for rulemaking. Documents referred to in this Notice, and not available in the published literature are in EPA's public docket.

Dated: October 1, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-23984 Filed 10-7-85; 8:45 am]

BILLING CODE 6560-50-M

[1] USDHHS. 1980. Bioassay of 1,2,3,6,7,8- and 1,2,3,7,8,9-hexachlorodibenzo-*p*-dioxin for possible carcinogenicity (gavage study). DHHS publication no. (NIH) 80-1754).

[2] Schoenig, G.F. 1984. Audit of NCI bioassay on orally administered HCDD to rats and mice. Report prepared for Paul, Hastings and Walker, counsel for Vulcan Chemical Company and Chapman Chemical Company. November 21.

[3] Dynamac Corporation. 1985. Final audit report on hexachlorodibenzo-*p*-dioxin. Submitted to D. Goldman, USEPA.

[4] USEPA. "Response to Comments Concerning the NCI/NTP Bioassay Study of HxCDD", August 1985.

[5] Doull, J., Memorandum to D. Byrd. Re: audit of NCI bioassay of HxCDD by Dr. G. P. Schoenig et al. June 3.

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Tuesday, October 8, 1985

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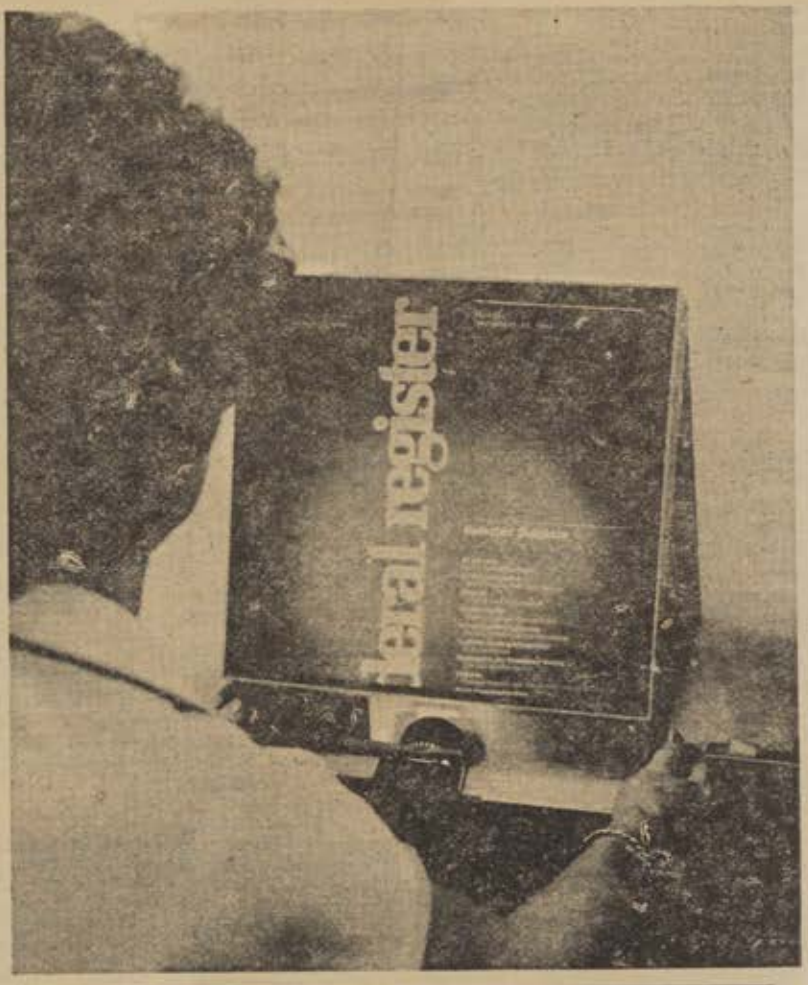

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_____ **Federal Register:** ___ One year as issued: $145 domestic; $181.25 foreign ___ Six months: $72.50 domestic; $90.65 foreign

_____ **Code of Federal Regulations:** ___ Current year: $185 domestic; $231.25 foreign ___ Previous year's full set (single shipment): $125 domestic; $156.25 foreign

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

For Office Use Only

Quantity	Charges
_____ Publications	
_____ Subscriptions	
Special Shipping Charges	
International Handling	
Special Charges	
OPNR	
_____ UPNS	
_____ Balance Due	
_____ Discount	
_____ Refund	

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(Rev. 7-22-85)