

JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432637	F-04-081390	4221530855	103	F I JOHNSON #8	MONTE CRISTO (9000)	0.0	FLORIDA GAS TRANS
-TAMARACK	PETROLEUM CO INC			RECEIVED: 05/04/84 JA: TX			
8432730	F-08-081542	4217331545	103	REED "21" #1 (RRC #28709)	SPRABERRY (TEND AREA)	14.0	PHILLIPS PETROLEU
8432729	F-08-081541	4217331542	103	REED "21" #2 (RRC #28709)	SPRABERRY (TEND AREA)	12.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED: 05/04/84 JA: TX			
8432417	F-10-077592	4217931560	103	COMBS #178	PANHANDLE GRAY	0.5	PHILLIPS PETROLEU
-TERRELL OIL CO				RECEIVED: 05/04/84 JA: TX			
8432668	F-7B-081445	4215131779	102-4	WILSON ESTATE "A" #3 - RRC #20716	ROUND TOP (CANYON 425)	45.0	CONOCO INC
-TEXACO INC				RECEIVED: 05/04/84 JA: TX			
8432379	F-04-072990	4247933563	103	107-TF A M BRUNI FEE #14	JUANITA	800.5	INTRASTATE GATHER
8432553	F-08-080189	4243131395	107-TF	E B COPE "B" #3	CONGER S W (PENN)	369.0	REATA INDUSTRIAL
8432549	F-08-080184	4243131394	107-TF	E B COPE "B" #4	CONGER S W (PENN)	276.3	REATA INDUSTRIAL
8432530	F-08-080129	4200331631	103	J E MABEE "A" NCT-1 #49-A	MABEE	4.7	
8432416	F-8A-077182	4216532451	103	ROBERTSON UNIT #63	ROBERTSON N (CLEARFOR	29.2	PHILLIPS PETROLEU
8432551	F-08-080187	4243131397	107-TF	STERLING "I" FEE #8	CONGER (PENN)	288.4	REATA INDUSTRIAL
8432570	F-08-080360	4243131375	107-TF	STERLING "J" FEE #8	CONGER (PENN)	0.4	REATA INDUSTRIAL
8432550	F-08-080186	4243131371	107-TF	STERLING "M" FEE #8	CONGER (PENN)	194.6	REATA INDUSTRIAL
8432556	F-08-080205	4243131418	107-TF	STERLING "O" FEE #8	CONGER (PENN)	135.3	REATA INDUSTRIAL
8432552	F-08-080188	4243131419	107-TF	STERLING "U" FEE #2	CONGER S W (PENN)	51.5	REATA INDUSTRIAL
8432557	F-08-080206	4243131388	107-TF	V E BROWNFIELD #8	CONGER (PENN)	237.3	REATA INDUSTRIAL
8432531	F-8A-080130	4221934162	103	W T COBLE "A" NCT-1 #45	LEVELLAND	11.0	AMOCO PRODUCTION
8432423	F-8A-077780	4216532695	103	WHARTON UNIT #160	HARRIS	36.1	PHILLIPS PETROLEU
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED: 05/04/84 JA: TX			
8432384	F-7C-073898	4210534489	102-4	107-TF UNIVERSITY 32-12-W2	UNIVERSITY 31 (STRAWN)	300.0	
-THREE-B OIL CO				RECEIVED: 05/04/84 JA: TX			
8432749	F-08-081623	4237100000	103	CREDO-STARK #4	CATLYNN WEST (CLEARFO	43.6	DELHI GAS PIPELIN
-TOM L INGRAM				RECEIVED: 05/04/84 JA: TX			
8432672	F-08-081455	4200333909	103	THORNBERY "F" #4	FUHRMAN-MASCHO	16.5	PHILLIPS PETROLEU
-TUCKER DRILLING COMPANY INC				RECEIVED: 05/04/84 JA: TX			
8432685	F-7C-081475	4245131371	102-2	BROWN "C" #13	K W B (STRAWN)	46.8	LONE STAR GAS CO
-TXO PRODUCTION CORP				RECEIVED: 05/04/84 JA: TX			
8432401	F-03-076306	4248132559	103	ALLENSON #10	LOUISE N (4600'E)	0.0	TENNESSEE GAS PIP
8432399	F-05-076163	4216130836	102-4	BAILEY "G" #1	MIMMS CREEK	0.0	DELHI GAS PIPELIN
8432399	F-05-076163	4216130836	107-TF	BAILEY "G" #1	MIMMS CREEK	0.0	DELHI GAS PIPELIN
8432474	F-05-078963	4216130733	102-4	CULLUM #1	REED N (BOSSIER SAND)	0.0	DELHI GAS PIPELIN
8432389	F-04-074806	4240931806	102-4	EGGERT #1	WILLMANN	0.0	REATA INDUSTRIAL
8432473	F-06-078960	4234932093	102-4	IMMON "C" #1	KERENS S (COTTON VALL	0.0	DELHI GAS PIPELIN
8432496	F-7B-079308	4236333244	103	MONTGOMERY #1	PALO PINTO COUNTY REG	30.0	SOUTHWESTERN GAS
8432435	F-09-078432	4223735486	103	POWERS #1	H F L (CONGLOMERATE)	250.0	LONE STAR GAS CO
8432509	F-7C-079605	4208131238	103	SIMPSON "H" #1	MEADOW CREEK	17.0	SUN OIL CO
8432402	F-05-076325	4216130833	102-4	UTLEY "H" #1	MIMMS CREEK (BOSSIER)	0.0	UNITED TEXAS TRAN
8432402	F-05-076325	4216130833	107-TF	UTLEY "H" #1	MIMMS CREEK (BOSSIER)	0.0	UNITED TEXAS TRAN
8432422	F-7C-077761	4223532129	103	WINTERBOTHAM #4	DOVE CREEK (CANYON)	146.0	COLUMBIA GAS TRAN
-UNION OIL COMPANY OF CALIF				RECEIVED: 05/04/84 JA: TX			
8432625	F-08-081237	4243131410	103	107-TF W L FOSTER JR "B" #14	CONGER (PENN)	2.0	ESPERANZA PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED: 05/04/84 JA: TX			
8432525	F-03-080002	4219931520	102-4	KIRBY LUMBER COMPANY #3	SOUR LAKE EAST (YEGUA	0.0	TEXAS GAS TRANSMI
-UNIT DRILLING & EXPLORATION CO				RECEIVED: 05/04/84 JA: TX			
8432405	F-10-076375	4229531256	103	IONE BOOTH #1	LIPSCOMB SW (CLEVELAN	300.0	DIAMOND CHEMICALS
-VERNON E FAULCONER INC				RECEIVED: 05/04/84 JA: TX			
8432623	F-10-081070	4206500000	108	BURNETT "B" # RRC ID #025310	PANHANDLE WEST	0.0	PHILLIPS PETROLEU
-W H M ENERGY INC				RECEIVED: 05/04/84 JA: TX			
8432739	F-10-081992	4206531647	103	MOHAWK #1 (IDB)	PANHANDLE CARSON	64.0	CABOT PIPELINE CO
8432727	F-10-081538	4206531648	103	MOHAWK #2 (IDB)	PANHANDLE CARSON	93.0	CABOT PIPELINE CO
-WAGNER & BROWN				RECEIVED: 05/04/84 JA: TX			
8432742	F-08-081601	4243131314	103	BARDEE #3-6	CONGER (PENN)	60.3	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 05/04/84 JA: TX			
8432667	F-08-081440	4210333283	103	M B MCKNIGHT #155	RUNNING W (WADDELL)	139.6	EL PASO NATURAL G
8432511	F-08-079658	4210333330	103	P J LEA ETAL (TR A) #163	LEA (SAN ANDRES)	56.5	EL PASO NATURAL G
8432512	F-08-079660	4210333032	103	P J LEA ETAL (TR A) #151	LEA (SAN ANDRES)	26.7	EL PASO NATURAL G
8432510	F-08-079655	4210333207	103	W N WADDELL ETAL (TR A) #1253	SAND HILLS (MCKNIGHT)	27.9	EL PASO NATURAL G
8432666	F-08-081438	4210333123	103	W N WADDELL ETAL (TR H) #1250	LEA (SOUTH CLEARFORK)	90.6	EL PASO NATURAL G
8432642	F-08-081403	4210333303	103	W N WADDELL ETAL (TRA) #1269	SAND HILLS (MCKNIGHT)	9.0	EL PASO NATURAL G
-WESTERN CHIEF OIL & GAS CO				RECEIVED: 05/04/84 JA: TX			
8432447	F-09-078710	4223725089	102-4	DUNLAP JOHNNY "C"	TJN (STRAWN)	0.0	SOUTHWESTERN GAS
-WESTLAND OIL DEVELOPMENT CORP				RECEIVED: 05/04/84 JA: TX			
8432736	F-7C-081579	4241331372	103	MARGARET D BYARS #2	HULLDALE WEST	15.0	LONE STAR GAS CO
-WHEELER OIL COMPANY				RECEIVED: 05/04/84 JA: TX			
8432411	F-01-076614	4223231659	103	BRITAIN-UMPHREYS #1	PANHANDLE E (ALBANY D	456.0	PHILLIPS PETROLEU
8432629	F-10-081360	4217931307	103	CATHY (05579) #1	PANHANDLE GRAY COUNTY	1.0	GETTY OIL CO
8432409	F-10-076534	4248331000	103	GRAGG (106371) #1	EAST PANHANDLE	32.0	HIGH PLAINS NATUR
-WILBROOK EXPLORATION INC				RECEIVED: 05/04/84 JA: TX			
8432569	F-7B-080351	4242933947	102-4	S & E REAL ESTATE #3	MICAR (BEND CONGL 372	32.0	SOUTHWESTERN GAS
-WILLIAMS PETROLEUM CO				RECEIVED: 05/04/84 JA: TX			
8432617	F-7B-080980	4236300000	103	KENDRICK - SOUTH 1-5	MINERAL WELLS NORTH C	500.0	SOUTHWESTERN GAS
-WILLIFORD ENERGY CO				RECEIVED: 05/04/84 JA: TX			
8432391	F-10-074980	4229531299	102-4	D SELL #1-30	SELL (UPPER MORROW)	104.0	PHILLIPS PETROLEU
8432390	F-10-074951	4229531302	102-4	D SELL #2-30	BOOKER NORTH (MORROW	104.0	PHILLIPS PETROLEU
8432514	F-10-079723	4229500000	102-4	MASON 1-4	SELL (UPPER MORROW) F	150.0	PHILLIPS PETROLEU
-WY-VEL CORP				RECEIVED: 05/04/84 JA: TX			
8432744	F-10-081609	4206531525	103	BURNETT (02470) #14	PANHANDLE-CARSON COUN	3.4	PHILLIPS PETROLEU
8432755	F-10-081644	4223331602	103	SOUTHLAND (04341) #16	PANHANDLE	0.5	PHILLIPS PETROLEU

[FR Doc. 84-14625 Filed 5-31-84; 8:45 am]

BILLING CODE 6717-01-C



# NGPA Notices of Determination By Jurisdictional Agencies

Issued: May 25, 1984.

**Note.**—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, will not be published in the *Federal Register*. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the

FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285

Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease  
102-2: New well (2.5 mile rule)  
102-3: New well (1000 ft rule)  
102-4: New onshore reservoir  
102-5: New res. on old OCS lease  
103: New onshore production well  
Section 107-DP: 15,000 ft or deeper  
107-GB: Geopressured brine  
107-DV: Devonian shale  
107-CS: Coal seam gas  
107-PE: Production enhancement  
107-TF: New tight formation  
107-RT: Recompletion tight formation  
Section 108: Stripper well  
108-SA: Seasonally affected  
108-ER: Enhanced recovery  
108-PB: Temporary pressure buildup

Kenneth F. Plumb,  
Secretary.

## NOTICE OF DETERMINATIONS

VOLUME 1137

ISSUED MAY 25, 1984

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								
-CABOT PETROLEUM CORP			RECEIVED:	05/07/84	JA: KS			
8432764	K-79-1696	1517500000	108-SA		CLEO A ADAMSON #2		0.0	NORTHWEST CENTRAL
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	05/07/84	JA: KS			
8432762	K-79-1962	1500700000	108-SA		DAVIS RANCH "D" #2	AETNA	10.0	NORTHWEST CENTRAL
8432763	K-79-1962	1500700000	108-SA		DAVIS RANCH "D" #2	AETNA	10.0	NORTHWEST CENTRAL
-HELMERICH & PAYNE INC			RECEIVED:	05/07/84	JA: KS			
8432761	K-79-1055	1508100000	108-ER		HAMMER #1		0.0	NORTHERN NATURAL
OKLAHOMA CORPORATION COMMISSION								
-AGATE PETROLEUM INC			RECEIVED:	05/07/84	JA: OK			
8432792	27715	3500321117	103		CLARK #1-15	BYRON EAST	75.0	SUN EXPLORATION &
-AMOCO PRODUCTION CO			RECEIVED:	05/07/84	JA: OK			
8432837	9406	3509320345	108-ER		CASE UNIT "F" #1	CEDARDALE N E	2.5	ANR PIPELINE CO
-ANADARKO PRODUCTION COMPANY			RECEIVED:	05/08/84	JA: OK			
8432893	18228	3505320523	108-ER		SCHUNEMAN A 1-33	RENFROW	0.0	PANHANDLE EASTERN
-ANDERMAN/SMITH OPERATING CO			RECEIVED:	05/08/84	JA: OK			
8432898	26021	3503920942	102-1		J JOE SMITH #1-16		1095.0	
-APOLLO PRODUCTION LTD			RECEIVED:	05/07/84	JA: OK			
8432850	28093	3507323173	103		BEECHER #24-13	NE OKARCHIE	0.0	PHILLIPS PETROLEUM
-ARCO OIL AND GAS COMPANY			RECEIVED:	05/07/84	JA: OK			
8432801	27727	3508720981	103		LINDSAY DEESE UNIT #20-2	GOLDEN TREND	25.6	WARREN PETROLEUM
-ARKLA EXPLORATION COMPANY			RECEIVED:	05/07/84	JA: OK			
8432802	27725	3500321020	103		DIEL #1-20	ALVA EAST	73.0	
-BEEDE & STEPHENS OIL CO			RECEIVED:	05/07/84	JA: OK			
8432806	27699	3511123149	108		SNELSON #2		7.3	PHILLIPS PETROLEUM
8432787	27698	3511124057	108		SNELSON #3		7.3	PHILLIPS PETROLEUM
8432789	27712	3510121230	108		WILKINS #2	COLE	5.8	PHILLIPS PETROLEUM
8432790	27713	3510121231	108		WILKINS #3	COLE	5.8	PHILLIPS PETROLEUM
8432791	27714	3510121232	108		WILKINS #4	COLE	5.8	PHILLIPS PETROLEUM
-BOSWELL ENERGY CORP			RECEIVED:	05/07/84	JA: OK			
8432841	23364	3510910669	102-4		GALLOWAY #1-29		0.0	PHILLIPS PETROLEUM
8432839	21946	3510920670	102-4		MC GEE #1-30		0.0	PHILLIPS PETROLEUM
-BROWN & BORELLI INC			RECEIVED:	05/08/84	JA: OK			
8432905	27813	3507323893	103		MITCHELL #1	SOONER TREND	27.0	EXXON CO USA
-BURKHART PETROLEUM CORP			RECEIVED:	05/07/84	JA: OK			
8432795	27721	3500722625	103		WELLS #1-16	S E LOGAN FIELD	100.0	TRANSWESTERN PIPE
-C J CASSELMAN			RECEIVED:	05/07/84	JA: OK			
8432809	27343	3511124424	108		MC CARTY #1	MORRIS	7.2	PHILLIPS PETROLEUM
-CHANSE PETROLEUM CORPORATION			RECEIVED:	05/08/84	JA: OK			
8432889	27779	3503700000	103		EAST DEEBA #1	DEEBA	13.0	KERR MCGEE CORP
8432888	27780	3503700000	103		EAST DEEBA #2	DEEBA	13.0	KERR-MCGEE CORP
-CUESTA ENERGY CORP			RECEIVED:	05/07/84	JA: OK			
8432793	27719	3504700000	103		EASTERLY #1-27	E KREMLIN	365.0	UNION TEXAS PETRO
8432794	27720	3504700000	103		SEARS #1-28	E KREMLIN	365.0	UNION TEXAS PETRO
-CUESTA ENERGY CORP			RECEIVED:	05/08/84	JA: OK			

BILLING CODE 6717-01-M



JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432887	27786	3504723466	103	DUNN #1-14	BAILEY 5 EAST	292.0	ARCO OIL & GAS CO
-DAB LTD			RECEIVED:	05/07/84 JA: OK			
8432823	27578	3504321450	103	GORE #1-32	SOUTH WEBB	1058.5	DELHI GAS PIPELIN
-DAUN ENERGY CO			RECEIVED:	05/08/84 JA: OK			
8432886	27791	3504723543	103	KINGERY #2-23	EAST BARNES	73.0	
-DELMAC CO			RECEIVED:	05/07/84 JA: OK			
8432845	27772	3508121600	103	HARMON #1	CUSHING	27.0	
8432817	27771	3511922205	103	PEARL GRAVES #1	MEHAN	100.0	COLORADO GAS COMP
-DILLEY J P			RECEIVED:	05/08/84 JA: OK			
8432900	27074	3511900000	108	DILLEY #1		0.0	PHILLIPS PETROLEU
-DYCO PETROLEUM CORPORATION			RECEIVED:	05/07/84 JA: OK			
8432797	24936	3503920885	102-4	BURGTORF-RANDOL 1-6		150.0	ARKANSAS LOUISIAN
8432796	24935	3503920872	102-4	SHEPARD THOMPSON 1-1		180.0	ARKANSAS LOUISIAN
-EARLSBORO ENERGIES CORP			RECEIVED:	05/08/84 JA: OK			
8432904	27806	3515121443	103	HFK #1-12	RINGWOOD	250.0	PHILLIPS PETROLEU
-EL DURADO DRILLING INC			RECEIVED:	05/07/84 JA: OK			
8432828	23844	3510321541	102-2 103	ROLLY SOUTH #4		6.6	SUN EXPLORATION &
8432829	23845	3510321859	102-2 103	ROLLY SOUTH #5		18.2	SUN EXPLORATION &
-EL PASO NATURAL GAS COMPANY			RECEIVED:	05/07/84 JA: OK			
8432849	09414	3500935434	103-ER	BROOKSHIRE #1	ERICK SOUTH	0.0	EL PASO NATURAL G
-EMERCHER EXPLORATION INC			RECEIVED:	05/08/84 JA: OK			
8432901	27410	3508720938	103	J G HATTER #2-6	BLANCHARD	0.0	LONE STAR GAS CO
-EQUITY EXPLORATION INC			RECEIVED:	05/07/84 JA: OK			
8432826	24909	3507323803	102-4 103	RUTH #12-1	SOONER TREND	365.0	PHILLIPS PETROLEU
-ESTORIL PRODUCING CORP			RECEIVED:	05/07/84 JA: OK			
8432811	24594	3510721550	102-2 103	MIOZZI #1	UNION VALLEY	0.0	
8432830	24594	3510721550	102-2 103	MIOZZI #1	UNDESIGNATED UNION V	124.1	
-EXXON CORPORATION			RECEIVED:	05/07/84 JA: OK			
8432857	27693	3504922015	103	HARRY K MOORE #1	EAST LINDSAY	291.0	
-GETTY OIL COMPANY			RECEIVED:	05/07/84 JA: OK			
8432824	27369	3513723704	103	FRENSLEY-MARTIN #2	SHO-VEL-TUM	0.0	GETTY OIL CO
8432835	0543	3513900000	108-PB	MARTIN #2	SOUTH GUYMON	0.0	NORTHWEST CENTRAL
-GRAHAM-MICHAELIS CORP			RECEIVED:	05/07/84 JA: OK			
8432816	27774	3513900000	108	SYLVESTER #1-32	HOOKER SOUTHWEST	18.0	NORTHERN NATURAL
-GULF OIL CORPORATION			RECEIVED:	05/07/84 JA: OK			
8432827	23769	3501922388	102-4	E C HIRSCHUER #1-13	MUSTANG NORTH (PRUE)	18.0	
8432848	23769	3501922388	102-4	E C HIRSCHUER #1-13	NORTH MUSTANG (RED FO	140.0	
8432836	1633	3512920075	108-PB	HORRELL #1		0.0	PANHANDLE EASTERN
-HOLMAN PETROLEUM INC			RECEIVED:	05/07/84 JA: OK			
8432832	24116	3511124017	102-2	BARB #3 11124016	WEST BEGGS	7.6	PHILLIPS PETROLEU
8432831	24117	3511124017	102-2	BARB #4 11124017	WEST BEGGS	22.6	PHILLIPS PETROLEU
-HUNGERFORD OIL & GAS INC			RECEIVED:	05/07/84 JA: OK			
8432834	23782	3509321379	103	BULLER #1	RINGWOOD	120.0	UNION TEXAS PETRO
-J WALTER DUNCAN JR			RECEIVED:	05/07/84 JA: OK			
8432825	24510	3514920207	102-4	MELVIN #1	ELK CITY	620.5	EL PASO NATURAL G
-JET OIL COMPANY			RECEIVED:	05/07/84 JA: OK			
8432815	27782	3508322314	103	MATTHEWS #1	MULHALL	0.0	EASON OIL CO
8432814	27783	3508322332	103	TAYLOR "C" #1	MULHALL	0.0	EASON OIL CO
-JONES & PELLON OIL CO			RECEIVED:	05/07/84 JA: OK			
8432808	27668	3501922926	103	SMITH #14-2	TATUM	30.0	MOBIL OIL CORP
-JONES & PELLON OIL CO			RECEIVED:	05/08/84 JA: OK			
8432899	26383	3501700000	107-PE	BRODERSON #1		0.0	MUSTANG FUEL CORP
-KAISER-FRANCIS OIL COMPANY			RECEIVED:	05/07/84 JA: OK			
8432807	27687	3505921000	103	CARLISLE #3-8	MOCANE LAVERNE	180.0	ANR PIPE LINE CO
-KEITH F WALKER			RECEIVED:	05/07/84 JA: OK			
8432785	27510	3501922778	103	GALT-TEXACO #1		40.2	MOBIL OIL CORP
8432805	27700	3508520731	103	RAY #3		36.5	AMINOIL USA INC
-KETAL OIL PRODUCING CO			RECEIVED:	05/08/84 JA: OK			
8432903	27654	3504723377	103	BETCHAN #2	SOUTH HAYWARD	438.0	
-L E JONES PRODUCTION COMPANY			RECEIVED:	05/07/84 JA: OK			
8432798	25858	3501922821	102-2	JONES-KALKMAN FEE #1		73.0	AMINOIL USA INC
8432799	25858	3501922821	103	JONES-KALKMAN FEE #1		73.0	AMINOIL USA INC
8432833	24001	3506720532	102-2	KESSLER #1		73.0	AMINOIL USA INC
-LOBAR OIL CO INC			RECEIVED:	05/08/84 JA: OK			
8432897	25168	3510910767	102-4	GOLSEN-BROWN #2		0.0	PHILLIPS PETROLEU
-M M RESOURCES INC			RECEIVED:	05/07/84 JA: OK			
8432846	27406	3511722014	103	FOOT #1		3.7	COLORADO GAS COMP
-MARATHON OIL COMPANY			RECEIVED:	05/07/84 JA: OK			
8432804	27707	3512121012	103	MASS UNIT #2	WILBURTON	1825.0	ARKANSAS LOUISIAN
-MEGA EXPLORATION INC			RECEIVED:	05/07/84 JA: OK			
8432844	27776	3503725513	103	MILLS #1	S BRISTOW	108.0	GOLDEN ARROW GAS
-MILLER EXPLORATION CO			RECEIVED:	05/07/84 JA: OK			
8432803	27724	3511922359	103	REBEL #1		0.0	AMINOIL USA INC
-MUREXCO PETROLEUM INC			RECEIVED:	05/07/84 JA: OK			
8432812	27793	3506322007	103	LYONS #1-6		73.4	HILL TOP INVESTME
-MONROE OIL & GAS INC			RECEIVED:	05/08/84 JA: OK			
8432894	23930	3508322255	103	PATTERSON #2-20	M W GUTHRIE	1.0	EASON OIL CO
-OAKLAND PETROLEUM OPERATING CO INC			RECEIVED:	05/08/84 JA: OK			
8432885	27797	3506300000	103	STEWART "B" #1	YEAGER	125.0	MEGA NATURAL GAS
-OFS-TULSA CORP			RECEIVED:	05/08/84 JA: OK			
8432911	27502	3509322781	103	BILL #1-12		10.0	PHILLIPS PETROLEU
-PALM-COOK PRODUCTION CO			RECEIVED:	05/08/84 JA: OK			
8432908	27801	3509300000	108	LINDA LOVELY #1		0.0	UNION TEXAS PETRO
-PETROLEUM RESOURCES CO			RECEIVED:	05/07/84 JA: OK			
8432813	27250	3512500000	103	STATE #5-36	SHAWNEE LAKE	0.9	BETHEL GAS PROCES
8432800	27289	3512500000	103	STATE #6-36	SHAWNEE LAKE	0.0	BETHEL GAS PROCES
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	05/07/84 JA: OK			
8432818	27769	3501721974	108	COFFEY A #1	WATONGA	0.0	ONG WESTERN INC
8432819	27768	3501721458	108	HOEBING "B" #1	NORTH CONCHO	0.0	PANHANDLE EASTERN
8432840	23015	3513921684	102-2	WAUGH #2	GUYMON-HUGOTON GAS AR	0.0	PANHANDLE EASTERN
-PROSPECTIVE INVESTMENT & TRADING CO			RECEIVED:	05/07/84 JA: OK			
8432847	23794	3504521118	102-4 103	DENNETT #1		0.0	PHILLIPS PETROLEU
-RIC PETROLEUM			RECEIVED:	05/08/84 JA: OK			
8432891	27683	3511779360	103	BROWN #1		36.5	HJD GAS CO
8432892	27682	3511721789	103	GRIESEL #1		18.3	HJD GAS CO
-SAKET PETROLEUM CO			RECEIVED:	05/08/84 JA: OK			
8432910	27387	3511123542	103	PATTON #3		0.0	PHILLIPS PETROLEU
-SANGUINE LTD			RECEIVED:	05/08/84 JA: OK			
8432884	28145	3505121449	107-DP	ANNIE #1		1284.8	TRANSWESTERN PIPE
-SANTA FE MINERALS INC			RECEIVED:	05/08/84 JA: OK			
8432909	27803	3507323888	103	WITTROCK #32-1		170.0	PHILLIPS PETROLEU
-SEARCH DRILLING CO			RECEIVED:	05/07/84 JA: OK			
8432788	27708	3500722189	108	CORNELSON #1-24	BOYD	2.9	NORTHERN NATURAL
-SOUTHLAND ROYALTY CO			RECEIVED:	05/07/84 JA: OK			



JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432838	19495	3513900377	108-PB		ELMORE #1	EAST HOOKER	21.5	NORTHERN NATURAL
SUN EXPLORATION & PRODUCTION CO								
8432853	27736	3504920908	103	RECEIVED: 05/07/84	JA: OK	EOLA 2598	18.0	SOHIO PETROLEUM CO
8432854	27735	3508700000	108		ELLA COOK C #1-A	E WASHINGTON (OSBORNE)	17.0	OKLAHOMA GAS & EL
TENNECO OIL COMPANY								
8432862	27431	3509322798	103	RECEIVED: 05/08/84	JA: OK	RINGWOOD	75.0	PIONEER GAS PRODUC
THE MIL-MC OIL CORP								
8432842	25856	3508300000	102-2	103	BACKHAUS #1	SOUTH LANGSTON	49.0	SUN EXPLORATION &
8432855	27711	3510300000	103		PRIBIL #1	SAMS	19.0	
8432856	27710	3510300000	103		PRIBIL #2	SAMS	19.0	
8432843	25857	3511900000	102-2	103	SWANK #1	STILLWATER AIRPORT	14.0	ARCO OIL & GAS CO
THREE SANDS OIL INC								
8432810	24851	3510322000	102-2	RECEIVED: 05/07/84	JA: OK		54.7	ARCO OIL & GAS CO
8432855	25868	3510322010	102-2	103	BAR W #2-33		9.1	AMINOIL USA INC
TXO PRODUCTION CORP								
8432906	25931	3509120561	102-2	RECEIVED: 05/08/84	JA: OK	S E CHECOTAH	417.0	
UNION TEXAS PETROLEUM								
8432896	24886	3509300000	108	RECEIVED: 05/08/84	JA: OK	HODGE I	36.0	PANHANDLE EASTERN
8432895	24884	3500300000	108		LEONA THOMAS #1	HODGE	0.0	PANHANDLE EASTERN
UTC ENERGY RESOURCES INC								
8432907	27640	3511124690	103	RECEIVED: 05/08/84	JA: OK	DUTCHER	46.0	PHILLIPS PETROLEU
WEBER ART								
8432851	27762	3511100000	108	RECEIVED: 05/07/84	JA: OK	BEGGS FIELD	2.1	PHILLIPS PETROLEU
8432820	27760	3511121863	108		HENSON #1	SCHULTER	3.2	PHILLIPS PETROLEU
8432822	27759	3511100000	108		M & H SMITH #1-B	SCHULTER	3.2	PHILLIPS PETROLEU
8432821	27759	3511100000	108		M & H SMITH #4	SCHULTER	3.2	PHILLIPS PETROLEU
8432822	27759	3511100000	108		M & H SMITH #6	SCHULTER	3.2	PHILLIPS PETROLEU
8432822	27761	3511100000	108		M & H SMITH #1	SCHULTER	3.2	PHILLIPS PETROLEU
WESTERLY OIL RESOURCES LTD								
8432786	27697	3511720910	103	RECEIVED: 05/08/84	JA: OK	WEST JENNINGS	5.7	MID-AMERICA GAS L
WESTERN OIL RESOURCES LTD								
8432890	27777	3511721880	103	RECEIVED: 05/08/84	JA: OK	WEST JENNINGS	6.1	MID-AMERICA GAS L
***** TENNESSEE OIL & GAS BOARD *****								
***** AMTEX RESOURCES INC *****								
8432783	A-2692	4104921162	102-2	RECEIVED: 05/04/84	JA: TN	BURRVILLE	2.0	FENTRESS GAS TRAN
B & W OIL CO								
8432782	A-2657	4112921162	102-2	RECEIVED: 05/04/84	JA: TN	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA
8432784	A-2691	4112921070	102-2		HUTCHERSON-HOLMES #1	GLADES EAST	10.0	EAST TENNESSEE NA
BRADY ENERGY CORP								
8432781	A-2690	4115120840	102-4	RECEIVED: 05/04/84	JA: TN	HUNTSVILLE	21.9	INTRASTATE ENERGY
DEEP VENTURES OIL & GAS EXPL INC								
8432778	A-2671	4112921119	102-2	RECEIVED: 05/04/84	JA: TN	PILOT MOUNTAIN	15.0	INTRASTATE ENERGY
8432780	A-2672	4112921148	102-2		GREEN ACRES EXPLORATION #1	PILOT MOUNTAIN	17.0	INTRASTATE ENERGY
8432779	A-2677	4112921289	102-2		GREEN ACRES EXPLORATION #2	LANSING	15.0	INTRASTATE ENERGY
DIXIE OIL COMPANY								
8432777	A-2685	4104921208	102-2	RECEIVED: 05/04/84	JA: TN	BURRVILLE	37.0	TENNESSEE GAS PIP
8432776	A-2686	4104921208	102-2		BRUNO GERNT ESTATE #51	BURRVILLE	37.0	TENNESSEE GAS PIP
EDDIE HOOD								
8432773	A-2667	4104921203	102-4	RECEIVED: 05/04/84	JA: TN	BURRVILLE	15.0	FENTRESS GAS TRAN
8432773	A-2666	4104921177	102-4		BRUNO GERNT ESTATE #51	BURRVILLE	10.0	FENTRESS GAS TRAN
ENERGY DRILLING CO								
8432774	A-2655	4103520149	103	RECEIVED: 05/04/84	JA: TN	CHESTNUT HILL	30.0	GENESIS GAS SYSTE
GLEN A WRIGHT								
8432841	A-2586	4112921268	102-2		GREGORY HOUSTON #2	PILOT MOUNTAIN	6.0	INTRASTATE ENERGY
8432862	A-2689	4112921166	102-2		ALLEN CHANCY-CYDE LINDSEY #1	HUNTSVILLE	10.0	INTRASTATE ENERGY



## CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C: Correction to prior Fed. Register notice
82-10691	TX	Humble Exploration	Michelle Lynn #1	575	1-14-82	C: 102-2 & 103 approved
83-10381	WV	Ashland Exploration	Kanawha Valley Bank #3	787	12-29-82	C: Well Name
83-26330	OK	Core Petroleum	Jennings #1-20	862	4-05-83	C: 102-2 (Morrow) & 107-DP (Springer) approved
83-29218	AR	TXO Production Corp	Tobey 1-C & Tobey 1-T	873	4-22-83	C: 102 approved (tubing 1-T) 103 approved (casing 1-C)
83-34841	TX	Superior Oil Co.	Edgmon-Cameron #7	899	5-28-82	C: 102-2 & 103 approved
83-42106	LA	Marshall Exploration	ROD RA SUD Welch #1	929	7-12-83	C: 102-4 & 103 approved
83-52522	US(MT)	Midlands Gas	2670 Federal #2	967	9-20-83	C: Well Name
84-06813	LA	Union Texas Petroleum	Dowling 21-1	1018	12-14-83	C: 102-4 & 107 TF Approved
84-10706	TX	Borger Welding	O'Neal #3	1036	1-12-84	C: Applicant Name
84-11224	LA	TXO Production Corp.	Pipes #1	1039	1-18-84	C: Applicant Name
84-11759	US(UT)	Coastal Oil & Gas	NBU 212-19	1041	1-20-84	C: 103 & 107-TF approved
84-11868	US(NM)	Turner Production Co.	Turner 26 #1	1041	1-20-84	C: 103 & 107-TF approved
84-12076	CO	William Perlman	James H Mayfield #1-100	1042	1-20-84	C: 107-CS approved, Not 107-TF
84-12077	CO	William Perlman	James H Mayfield #1-11U	1042	1-20-84	C: 107-CS approved Not 107-TF
84-12078	CO	William Perlman	Mabel C. Payne #1-33	1042	1-20-84	C: 107-CS approved Not 107-TF
84-12093	CO	J-W Operating Company	D Crossland #3-26	1042	1-20-84	C: 107-TF approved, not 107-PE
84-12094	CO	J-W Operating Company	G. Josh #3-34	1042	1-20-84	C: 107-TF approved, not 107-PE
84-12095	CO	J-W Operating Company	Klinzmann #2-11	1042	1-20-84	C: 107-TF approved, not 107-PE
84-12291	OK	DLB Energy	Struck No. 18-5	1043	1-20-84	C: 102 & 103 approved
84-12396	CO	William Perlman	Southern UTE #1-32	1044	1-23-84	C: 107-CS approved, not 107-TF
84-12399	VA	Philadelphia Oil Co.	Jesse Wampler P-151	1044	1-23-84	C: 103 & 107-TF approved
84-12611	WV	Peake Operating Company	New River #8 AR	1045	1-26-84	C: Well Name
84-12923	WY	Energetics Inc.	State 20-16	1046	1-26-84	C: 102-2 & 107-TF approved
84-12924	WY	Energetics Inc.	LMU State 30-16	1046	1-26-84	C: 102-2 & 107-TF approved
84-13029	US(NM)	Yates Pet. Corp.	Witter VW Fed #1	1047	1-26-84	C: 102-3 & 107-TF approved
84-13030	US(NM)	McClellan Oil Corp.	Coyote Fed. #4-Y	1047	1-26-84	C: 102-4 & 107-TF approved
84-13031	US(NM)	Yates Pet. Corp.	Peek WV Fed. #1	1047	1-26-84	C: 102-2 & 107-TF approved
84-13032	US(NM)	Yates Pet. Corp.	Huckaby, TJ Fed. #5	1047	1-26-84	C: 102-2 & 107-TF approved
84-13034	US(NM)	Yates Pet. Corp.	Ritz TZ Fed. #2	1047	1-26-84	C: 102-3 & 107-TF approved
84-13035	US(NM)	Yates Pet. Corp.	Binnon T. T. Fed. #2	1047	1-26-84	C: 102-2 & 107-TF approved
84-13040	US(NM)	Depco Inc.	Rose Fed. #6	1047	1-26-84	C: 102-2 & 107-TF approved
84-13041	US(NM)	Mesa Pet. 6	Macho Fed #5	1047	1-26-84	C: 102-2 & 107-TF approved
84-13042	US(NM)	Yates Pet. Corp.	Fed. HY #8	1047	1-26-84	C: 102-2 & 107-TF approved
84-13043	US(NM)	Mesa Pet. Co.	Leila Fed. #2	1047	1-26-84	C: 102-2 & 107-TF approved
84-13045	US(NM)	McClellan Oil Corp.	McClellan L. Fed. #2	1047	1-26-84	C: 102-4 & 107-TF approved
84-13046	US(NM)	Yates Pet. Corp.	Huckaby, T. J. Fed. #4	1047	1-26-84	C: 102-2 & 107-TF approved
84-13047	US(NM)	Yates Pet. Corp.	Ingram, WY Fed. #1	1047	1-26-84	C: 102-3 & 107-TF approved
84-13048	US(NM)	Yates Pet. Corp.	Doris RI Fed. #3	1047	1-26-84	C: 102-2 & 107-TF approved
84-13049	US(NM)	Yates Pet. Corp.	Thomas, LN Fed. #7	1047	1-26-84	C: 102-2 & 107-TF approved
84-13050	US(NM)	Yates Pet. Corp.	Sorenson, IB Fed. #2	1047	1-26-84	C: 102-2 & 107-TF approved
84-13051	US(NM)	Depco Inc.	Rose Fed. #8	1047	1-26-84	C: 102-2 & 107-TF approved
84-13052	US(NM)	McClellan Oil Corp.	McClellan Fed. MOC #5	1047	1-26-84	C: 102-4 & 107-TF approved
84-13053	US(NM)	McClellan Oil Corp.	McClellan Fed. MOC #6	1047	1-26-84	C: 102-4 & 107-TF approved
84-13054	US(NM)	Yates Pet. Corp.	Binnon T. T. Fed. #6	1047	1-26-84	C: 102-2 & 107-TF approved
84-13055	US(NM)	Yates Pet. Corp.	Teckla MD Fed #6	1047	1-26-84	C: 102-3 & 107-TF approved
84-13442	OK	Kaiser-Francis Oil Co.	Berryman #1-19	1049	1-26-84	C: 102-4 approved, not 102-2
84-13644	TX	Natural Resources Corp.	NBC Mattie Poole #1	1051	1-26-84	C: 107-PE approved, not 107-TF
84-14043	NM	Blackwood & Nichols	Northeast Blanco Unit #65	1053	1-27-84	C: 108-PB approved
84-14058	NM	Mobil PRDG Texas & NM	Stevens Unit #1	1053	1-27-84	C: Well Name
84-14137	LA	Gulf Oil Corporation	SL 195 QQ #304-D	1053	1-27-84	C: 102-4 approved, not 102-1
84-14150	LA	Moran Exploration Inc.	Prairie Land Co. #1	1053	1-27-84	C: 102 & 103 approved
84-14153	LA	Vernon E. Fankoner	Bagley #1 RRA SUA 173061	1053	1027-84	C: 102 & 103 approved
84-14185	LA	Pennzoil Company	SL 6310 "A" No. 17	1053	1-27-84	C: Well Name
84-14200	LA	Texaco Inc.	Williams Jr. et ux #3	1053	1-27-84	C: 102-4 & 103 approved
84-14239	WV	Peake Operating Company	New River #20-AR	1054	1-31-84	C: 107-TF approved, not 107-DV
84-14242	WV	Sterling Drilling and	Romine #772	1054	1-31-84	C: 107-DV approved, not 107-TF
84-14456	OK	Cuyahoga Expl. & Devlp.	Frank Rose #4	1055	2-03-84	C: 103 & 107-DV approved
84-14613	UT	Coastal Oil & Gas Corp.	Natural Buttes Unit 81V (35-9-21)	1056	2-3-84	C: 103 & 107-TF approved
84-14815	TX	TXO Production Corp.	Terry "C" #1	1056	2-3-84	C: Well Name
84-15009	LA	Texaco	#1 Caddo Levee Dist. 9248	1057	2-7-84	C: 102-4 & 103 approved
84-15306	US(NM)	Mesa Petroleum Co.	Depco Federal #1	1059	2-8-84	C: 108 Denied by JA
84-15336	NM	Yates Petroleum Co.	Eagle Creek "BL" No. 3	1059	2-8-84	C: Well Name
84-15565	KY	Kentucky WV Gas Co.	Wilson Whittaker #7068	1059	2-8-84	C: 107-DV approved, not 107-DP



JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C: Correction to prior Fed. Register notice
84-15999	OK	Perspective Inv & Trad	Jerry No. 1	1061	2-15-84	C: 102-2 & 103 approved
84-16280	MS	Mosbacher Production Company	Edward Hedgepeth #1	1062	2-15-84	C: 103 & 107-DP approved
84-16376	CO	Energy Minerals Corp.	Duff 23-31	1063	2-15-84	C: 108-ER approved, not 108
84-16378	CO	American Petroleum Ener	Argenta UTE #2	1063	2-15-84	C: 108-PB approved, not 108
84-16383	WV	J & J Enterprises	B-346 et al.	1063	2-15-84	C: 107-DV approved, not 107-TF
thru 84-16394						
84-16843	OH	Berresford Enterprises	Ralph Rocker #1	1065	2-22-84	C: 107-TF approved, not 107-DP
84-17346	TX	Rankin Oil Co.	Pebsworth "C" #2	1067	2-23-84	C: Well name
84-17482	KS	Hinkle Oil company	Gatterman #1	1068	2-23-84	C: 108 Approved, not 108-SA
84-17483	KS	Jim Osborn O & G	ARNDT #1	1068	2-23-84	C: 102-4 amended to 102-2
84-17484	KS	Jim Osborn O & G	ARNDT #2	1068	2-23-84	C: 102-4 amended to 102-2
84-17613	US(WY)	Natural Gas Corp of CA	NGC 2-20 FED	1068	2-23-84	C: 102-2 & 107-TF approved
84-17615	US(WY)	Northwest Production	New Fork #1	1068	2-23-84	C: 103 & 107-TF approved
84-17649	KS	Triad Energies Inc.	Myers North #7	1068	2-23-84	C: 102-2 approved, not 108-2
84-17650	KS	Triad Energies Inc.	Myers North #6	1068	2-23-84	C: 102-2 approved, not 108-2
84-17651	KS	Triad Energies Inc.	Myers North #5	1068	2-23-84	C: 102-2 approved, not 108-2
84-17652	KS	Triad Energies Inc.	Myers North #8	1068	2-23-84	C: 102-2 approved, not 108-2
84-17653	KS	Triad Energies Inc.	Myers North #9	1068	2-23-84	C: 102-2 approved, not 108-2
84-17654	KS	Triad Energies Inc.	Myers North #2	1068	2-23-84	C: 102-2 approved, not 108-2
84-17655	KS	Triad Energies Inc.	Myers North #1	1068	2-23-84	C: 102-2 approved, not 108-2
84-18228	WV	Peake Operating Co.	New River #16-AR	1071	2-24-84	C: 107-TF approved, not 107-DV
84-18229	WV	Peaks Operating Co.	Jones & Gibson #7-AJ	1071	2-24-84	C: 107-TF approved, not 107-DV
84-18230	WV	Peake Operating Co.	Jones & Gibson #9-AJ	1071	2-24-84	C: 107-TF approved, not 107-DV
84-18354	US(WY)	Patrick Petroleum	Red Desert Federal #1	1071	2-24-84	C: 103 & 107-TF approved
84-18357	US(WY)	Snyder Oil Co.	CIGE Petcorp. Federal IC-26-18-93	1071	2-24-84	C: 103 & 107-TF approved
84-18358	US(WY)	Snyder Oil Co.	PTS Federal IC-8-17-92	1071	2-24-84	C: 103 & 107-TF approved
84-18359	US(WY)	Snyder Oil Co.	CIGE Petcorp. Federal IC-24-18-93	1071	2-24-84	C: 103 & 107-TF approved
84-18360	US(WY)	Snyder Oil Co.	CIGE Petcorp. Federal	1071	2-24-84	C: 103 & 107-TF approved
84-18363	US(WY)	Chippewa Oil & Gas Inc.	Mari Federal 43-26	1071	2-24-84	C: 102-4 approved, not 103
84-18854	US(CO)	Celeron Oil & Gas Co.	Federal 1-5-3-97	1073	2-29-84	C: 107-TF approved, not 107-DP
84-19039	AR	Stephens Production Co.	E L Kibier #4-T	1074	2-29-84	C: Well name
84-19490	TX	Triton Oil & Gas	H. W. Bowen #5	1075	2-29-84	C: Well name
84-19641	OK	El Paso Natural Gas Co.	Vannerson #2	1076	3-2-84	C: 108 & 108-PB approved
84-19654	OK	Fortuna Energy Corp.	Segelquist	1076	3-3-84	C: 102-4 (Stray Rogers only) & 103 (Red Fork only) approved
84-19813	US(WY)	Conoco Inc.	Cloverly-Morrison Well #7	1077	3-5-84	C: 108-ER Denied by JA
84-19825	PA	Petro Evaluation Services Inc.	Ramey #2	1077	3-5-84	C: 107-TF approved, not 103
84-20094	NM	El Paso Natural Gas Co.	San Juan 27-5 Unit #10	1078	3-6-84	C: Well name
84-20178	TX	Diamond Shamrock Corp.	Robertson C #4	1078	3-6-84	C: Well name
84-20414	LA	Jeems Boyou Prod. Co.	Martin #1	1079	3-9-84	C: 102-2 approved
84-20452	LA	McCrae Oil Corp.	#1 Reed Lbr.Co.LEV RA SUY	1079	3-9-84	C: 107-TF approved, not 107-DP
84-20575	KY	Appalachian Natural Gas Corp.	App #18 (Ridgeway Fuel) #50949	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20576	KY	Appalachian Natural Gas Corp.	App #10 (Ridgeway Fuel) Permit #48248	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20578	KY	Appalachian Natural Gas Corp.	App #2 (Ridgeway Fuel) Permit #49298	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20579	KY	Appalachian Natural Gas Corp.	App #8 (Ridgeway Fuel) Permit #50678	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20582	KY	Appalachian Natural Gas Corp.	App #5 (Ridgeway Fuel) Permit #48247	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20597	KY	Appalachian Natural Gas Corp.	App #19 (Ridgeway Fuel) Permit #49519	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20598	KY	Appalachian Natural Gas Corp.	App. #3 (Ridgeway Fuel) Permit #49297	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20645	KY	Appalachian Natural Gas Corp.	App. #6	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20646	KY	Appalachian Natural Gas Corp.	App. #12	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20647	KY	Appalachian Natural Gas Corp.	App. #11	1080	3-9-84	C: 107-TF approved, not 107-DV
84-20651	KY	Appalachian Natural Gas Corp.	App-Walbridge #2 #52239	1080	309084	C: 107-TF approved, not 107-DV
84-20733	KY	Wiser Oil Co.	Sawyer Mills #1	1080	3-9-84	C: 108 approved, not 108-SA
84-20734	KY	Wiser Oil Co.	J E. Davidson #1	1080	3-9-84	C: 108 approved, not 108-SA



JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C: Correction to prior Fed. Register notice
84-20735	KY	Wiser Oil Co.	Fordson Coal #1	1080	3-9-84	C: 108 approved, not 108-SA
84-20743	KY	Alert Oil & Gas Co.	Joseph Clevenger #3	1080	3-9-84	C: 108 approved, not 108-PB
84-20746	KY	Alert Oil & Gas Co.	John Stewart #7	1080	3-9-84	C: 108 approved, not 108-PB
84-20804	KY	Ashland Exploration	Colony Coal & Coke #60	1080	3-9-84	C: 108-SA approved, not 108
84-21222	US(NM)	HNG Oil Co.	Pitchfork "34" Fed Com 1	1080	3-19-84	C: 102-2 & 103 approved
84-21227	US(NM)	Sun Expl. & Prod.	Chaves "A" Fed. #1U	1082	3-19-84	C: 103 & 107-TF approved
84-21565	TX	Robert P. Lamberts	Ransom #2U	1084	3-19-84	C: Well Name
84-21802	US(NM)	Fred Pool Operating Co.	Pearl State #1	1085	3-19-84	C: 102-2 Denied by JA
84-21827	US(NM)	Ammex Petroleum	Mesa State #2	1085	3-19-84	C: 102-4 & 103 approved
84-21867	US(NM)	Conoco	Stevens B #19	1085	3-19-84	C: Well Name
84-21948	OH	Appalachian Explo. Inc.	Collins Unit #1	1085	3-19-84	C: 107-TF approved, not denied
84-21949	OH	Appalachian Explo. Inc.	D Manes #1	1085	3-19-84	C: 107-TF Denied by JA
84-22247	TX	Austin Oil & Mineral	V. Hervey #2	1087	3-21-84	C: Well Name
84-22252	TX	Katlaco Operating Co.	Katlaco Fee "D" #8	1087	3-21-84	C: Well Name
84-22646	OK	TXO Production Corp.	Keeton C #1	1088	3-27-84	C: Applicant Name
84-22667	OK	TXO Production Corp.	Garrison B #1	1088	3-27-84	C: Well Name
84-22811	US(WY)	CIG Exploration	Long Butte #5	1089	3-27-84	C: 102-2 approved, not 107-2
84-22822	US(WY)	Cities Ser. O & G Corp.	Hartzog Draw U TR 63#5205	1089	3-27-84	C: Well Name
84-22887	OK	Prospective Inv. & Ind.	Carl 1-35	1089	3-27-84	C: 102-2 & 103 approved
84-22903	OK	Santa Fe-Andover Oil	School Lands #36-3	1089	3-27-84	C: 102-4 & 103 approved
84-22994	OH	Arapar Ventures of NY	Reed Carrel #1	1090	4-03-84	C: 103 approved, not 107-TF
84-23009	OH	Derby Oil & Gas Corp.	Robert Morehead #4	1090	4-03-84	C: 103 approved, 107-TF denied
84-23175	OK	Shell Oil	Elk City Hoxbar SD Congl #1-23-2	1091	4-03-84	C: Well Name
84-23223	OK	Anadarko Production Co.	Grihi Trust A No. 1	1091	4-03-84	C: Chester & Marrow approved
84-23249	OK	Apollo Production	#31-5 Hoehner	1091	4-03-84	C: 102-4 & 103 approved
84-23752	US(NM)	HNG Oil Co.	Diamond 5 Fed #1	1094	4-03-84	C: 102-2 & 107-DP approved
84-23771	US(NM)	Stevens Operating Corp.	Helen Collins Federal #2	1094	4-03-84	C: 102-4 & 107-TF approved
84-23781	US(NM)	Sanders Oil & Gas Inc.	Mesa Diablo Federal #1	1094	4-03-84	C: 103 & 107-TF approved
84-23787	OH	B & K Drilling Co.	Clark #2	1094	4-03-84	C: Well Name
84-23790	OH	B J Inc.	Logsdon #1	1094	4-03-84	C: 103 approved, 107-TF denied
84-23791	OH	B J Inc.	B Glauque #2-A, 3,4,5,6,7	1094	4-03-84	C: 103 approved, 107-TF denied
thru 84-23796						
84-24060	PA	Richard M. Stewart	Shearwood Terrace Dev. #1	1095	4-03-84	C: Well Name
84-24070	PA	Tetra Energy Group Ltd.	Martin Hanas #1	1095	4-03-84	C: 107-TF approved
84-24134	WV	Ashland Explo. Inc.	Courtney Co #18-094132	1095	4-03-84	C: 107-DV approved, not 107-DP
84-24151	US(NM)	Stevens Operating Corp.	Nichols Dale Federal #6	1095	4-03-84	C: 102-4 & 107-TF approved
84-24152	US(NM)	McKay Oil Corporation	McKay-Pennzoil Federal #1	1095	4-03-84	C: 102-2 & 107-TF approved
84-24159	NY	Envirogas Inc.	H Heath #1	1095	4-03-84	C: Well Name
84-24196	LA	TXO Production Corp.	Wright "C" 1-D	1096	4-03-84	C: 103 & 107-TF approved
84-24301	US(WY)	Kenal Oil & Gas Inc.	Federal #1-5	1096	4-03-84	C: 102-2 & 107-TF approved
84-24992	TX	Mobil Prdg. TX & NM	Field Unit #2 Well # 2312	1100	4-11-84	C: Well Name
84-24998	TX	Tom Brown Inc.	Holt Ranch "A" #7	1100	4-11-84	C: Well Name
84-25213	US(CO)	Norris Oil Company	Livingston 11-2	1101	4-11-84	C: 103 & 107-TF approved
84-25215	US(CO)	Coseka Resources (USA)	Federal 17-0-23-4-103	1101	4-11-84	C: 102-2 & 107-PE approved
84-25226	LA	Rabwin Oil & Gas	J B David #1	1101	4-11-84	C: Well Name
84-25297	US(NM)	HNG Oil Company	Half 5 Federal Com #1	1101	4-11-84	C: 102-2 & 107-DP approved
84-25484	KS	Ox Bow Gas Company	Donald Odell #1	1102	4-11-84	C: Well Name
84-26641	OK	Tenneco Oil Company	S Lone Elm Cleveland SU#94	1106	4-24-84	C: Well Name
84-26999	OK	Santa Fe Energy Prod.	Noble 1-1	1107	4-27-84	C: 102-2 & 107-DP approved
84-27424	OK	Arkla Exploration Co.	Cornell #1	1110	5-01-84	C: Well Name
84-27449	OK	Service Drilling Co.	McKibbin #1-34	1110	5-01-84	C: Well Name
84-27451	OK	Cimmaron Pet. Corp.	Wallace CPC #181-1	1110	5-01-84	C: Well Name
84-27452	OK	Westwind Prod. Company	Surgnier #7	1110	5-01-84	C: Well Name

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# Federal Register

Friday  
June 1, 1984

## Part V

## Department of Labor

### Occupational Safety and Health Administration

#### 29 CFR Part 1956

#### Initial Approval Determination; New York State Plan Applicable Only to Public Employees; Rule



## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## 29 CFR Part 1956

## Initial Approval Determination; New York State Plan Applicable Only to Public Employees

**AGENCY:** Department of Labor, Occupational Safety and Health Administration (OSHA).

**ACTION:** Initial State plan approval.

**SUMMARY:** The New York State Occupational Safety and Health plan covering only public sector employees (employees of the State and its political subdivisions) is approved as a developmental plan under section 18 of the Occupational Safety and Health Act of 1970 and 29 CFR Part 1956. Under the approved plan, the New York State Labor Department is designated as the State agency responsible for the development and enforcement of occupational safety and health standards applicable to public employment throughout the State. The Federal Occupational Safety and Health Administration retains full authority for coverage of private sector employees in the State of New York as well as for coverage of Federal government employees.

**EFFECTIVE DATE:** June 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** James Foster, Director, Office of Information and Public Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: 523-8148.

**SUPPLEMENTARY INFORMATION:****Introduction**

Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter referred to as the Federal Act) provides that a State which desires to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting and obtaining Federal approval of a State plan describing in detail the State's proposed occupational safety and health program. Part 1956 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Federal Act whereby States may submit for approval, under the requirements of that section, plans to assume responsibility for the development and enforcement of occupational safety and health standards applicable only to employees

of the State and its political subdivisions (hereinafter referred to as public employees).

Under these regulations, the Assistant Secretary may approve a State plan for public employees if in his judgment the plan provides for the development and enforcement of standards relating to hazards in employment covered by the plan which are or will be at least as effective in providing safe and healthful employment and places of employment for public employees as standards promulgated and enforced by the Occupational Safety and Health Administration (OSHA) in the private sector under section 6 of the Federal Act. In making this determination the Assistant Secretary will consider, among other things, the criteria and indices of effectiveness set forth in 29 CFR Part 1956, Subpart B. A State plan for public employees may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in §§ 1956.10 and 1956.11, if it includes satisfactory assurances by the State that it will take the necessary "developmental steps," and establishes an acceptable developmental schedule, to meet the criteria within a 3-year period (29 CFR 1956.2(b)). The Assistant Secretary publishes a notice of "certification of completion of developmental steps" when all of a State's developmental commitments have been met satisfactorily (29 CFR 1956.23, 1902.33 and 1902.34). After certification of a State plan for public employees, OSHA initiates a period of at least one year of intensive monitoring, after which OSHA makes a determination under the procedures of §§ 1902.38, 1902.39, 1902.40 and 1902.41 as to whether, on the basis of actual operations, the criteria set forth in §§ 1956.10 and 1956.11 are being applied under the plan.

**History of the Present Proceeding**

A State plan for the enforcement of occupational safety and health standards in New York was approved by the Assistant Secretary on May 14, 1973 (39 FR 13482; 29 CFR 1952.180 *et seq.*). This plan included coverage of private workplaces as well as a program for public employees. The plan was subsequently withdrawn effective June 30, 1975, under the authority of then Governor Hugh L. Carey (40 FR 27655).

During 1980, the New York State Legislature passed legislation, signed into law by the governor on June 30, 1980, which provided the basis for establishing a comprehensive occupational safety and health program applicable to the public employees in the State. This statute, the Public

Employee Safety and Health Act (hereinafter referred to as the New York Act), Chapter 729 of the Laws of 1980, became effective on December 29, 1980. Pursuant to the New York Act, the State formally submitted for Federal approval a plan applicable only to public employees (Ex. 1, hereinafter referred to as the New York plan) on February 11, 1982. In response to Federal review of the proposed New York plan, supplemental assurances, and revisions, corrections and additions to the plan were submitted on March 4, 1984 and March 15, 1984.

On March 30, 1984, OSHA published notice in the *Federal Register* (49 FR 12713) concerning the submission of the New York plan (Ex. 2), announcing that initial Federal approval of the plan was at issue, and offering interested parties an opportunity to review the plan and submit data, views, arguments or requests for a hearing concerning the plan. The New York Department of Labor published similar notices in the State on April 2, 1984, in the *New York Times*, *Albany Times Union* and the *Buffalo Evening News* (Ex. 4).

To assist and encourage public participation in the initial approval process, copies of the New York plan were maintained in the Docket Office, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue, N.W., Room S-6212, Washington, D.C. 20210; Office of the Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036; State of New York Department of Labor, State Office Building Campus, Building 12, Room 579, Albany, New York 12220; Division of Occupational Safety and Health, State of New York Department of Labor, Room 6994, 2 World Trade Center, New York, New York 10047.

**Summary and Evaluation of Comments Received**

In response to OSHA's March 30, 1984 *Federal Register* notice, which announced submission of the New York Plan and its availability for public comment, comments were received from: (1) The New York State Professional Fire Fighters Association, Inc., (2) the New York State Committee for Occupational Safety and Health (COSH), (3) the State of Michigan Department of Labor, (4) the American Federation of State, County and Municipal Employees, AFL-CIO, and (5) the New York State AFL-CIO.

The comments from the New York State Professional Fire Fighters



Association (Exs. 3-1 and 3-3), representing unions in 13 cities in New York State, supported approval of the New York plan.

Arthur Wilcox, Chairperson of the New York State Committee on Occupational Safety and Health (COSH), expressed support from the organization for the New York plan (Ex. 3-2). COSH indicated that the plan will provide coverage to New York State's public employees and employees of its political subdivisions that is similar to OSHA's coverage for private employees, and that Federal approval and partial funding of the plan will enable New York to add to its staff in order to create a strong public employee safety and health plan.

Comments were also received from the Michigan State Department of Labor (Ex. 3-4), which itself administers a State occupational safety and health plan for both private and public sector employment, under initial approval from OSHA. Michigan stated its belief that employees in both private and public sector employment need to be protected by an occupational safety and health program. Because private sector employees in New York State are protected by Federal OSHA, Michigan supports Federal approval of the New York plan so that public employees will be protected similarly. Michigan also urged that any Federal funds used for a 50% grant to New York to offset the costs of administering the approved plan should be appropriated separately from and in addition to the appropriation for Federal grants to the 24 existing State plans, so that there is no reduction in funding for these plans.

Comments from the American Federation of State, County and Municipal Employees, AFL-CIO (Ex. 3-5) and the New York State AFL-CIO (Ex. 3-6) cite examples of safety and health risks faced by public employees in the performance of their duties and urge immediate approval by OSHA of the New York plan.

A review of all of the comments received indicates that none of the commenters offered specific facts or observations regarding the question of whether the New York plan meets the statutory and regulatory criteria for initial plan approval. However, all commenters supported approval of the New York plan. There were no requests for a public hearing.

#### Review Findings

As required by 29 CFR 1956.2 in considering the granting of initial approval to a State public employee plan, OSHA must determine whether the State plan meets or will meet the criteria

in 29 CFR 1956.10 and the indices of effectiveness in 29 CFR 1956.11. Findings and conclusions in each of the major State plan areas addressed by 29 CFR Part 1956 are as follows:

#### (1) Designated Agency

Section 18(c)(1) of the Federal Act provides that a State occupational safety and health plan must designate a State agency or agencies responsible for administering the plan throughout the State (29 CFR 1956.10(b)(1)). The plan must describe the authority and responsibilities of the designated agency and provide assurance that other responsibilities of the agency will not detract from its responsibilities under the plan (29 CFR 1956.10(b)(2)). The New York Act (section 27-a(4)) mandates that the Industrial Commissioner (now Labor Commissioner) shall adopt and enforce occupational safety and health standards applicable to all public employees throughout New York State. Under this authority, the New York State Labor Department is designated as the agency responsible for administering the plan throughout the State (New York plan, section I, p. 15). The plan also describes the authority of the New York Labor Department and its other responsibilities (id., p. 16).

#### (2) Scope

Section 18(c)(6) of the Federal Act provides that the State, to the extent permitted by its law, shall under its plan establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of the State and its political subdivisions. Only where a State is constitutionally precluded from regulating occupational safety and health conditions in certain political subdivisions may the State exclude such political subdivision employees from coverage (29 CFR 1956.2(c)(1)). Further, the State may not exclude any occupational, industrial or hazard grouping from coverage under its plan unless OSHA finds that the State has shown there is no necessity for such coverage (29 CFR 1956.2(c)(2)).

The scope of the New York plan includes any employee of the State and any political subdivision thereof, including a public authority or any other governmental agency or authority (New York plan, section I, p. 6). No employees of any political subdivision of the State or local government are excluded from the plan (id., p. 7). The New York State Labor Department adopts all Federal occupational safety and health standards, and the plan excludes no occupational, industrial or hazard grouping (id., p. 10). Among the concerns

identified during OSHA review of the New York plan was language in section 27-a(2) of the New York Act which raised questions as to the New York Act's applicability to employees of the various school boards in the State. OSHA thus requested clarification of the basis and extent of the perceived exclusion of school board employees. This issue was subsequently discussed at several meetings between OSHA and State officials. OSHA's final review comments, including the question of public school employee coverage, were contained in a February 14, 1984 memorandum to OSHA's New York Regional Administrator, and were the subject of further discussion with the State. In response, New York submitted on March 4, 1984 (id., appendix 23), the State Labor Department Counsel's opinion that all public school employees are fully covered by the State plan and gave assurance that should the Department's interpretation be challenged successfully, the Department would seek appropriate legislative correction.

Consequently, OSHA finds that the New York plan and assurances contained therein demonstrate that no employees of the State and its political subdivisions are excluded from coverage and that the plan excludes no occupational, industrial, or hazard grouping.

#### (3) Standards

Section 18(c)(2) of the Federal Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. A State plan for public employees must therefore provide for the development or adoption of such standards and must contain assurances that the State will continue to develop or adopt such standards (29 CFR 1956.10(c); 1956.11(b)(2)(ii)). A State may establish the same standards as Federal OSHA (29 CFR 1956.11(a)(1)), or alternative standards that are at least as effective as those of Federal OSHA (29 CFR 1956.11(a)(2)). Where a State's standards are not identical to the Federal, they must meet the following criteria: They must be promulgated through a procedure allowing for consideration of all pertinent factual information and participation of all interested persons (29 CFR 1956.11(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR Part 1956.11(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels,



posting, medical examinations, etc. (29 CFR 1956.11(b)(2)(vi)); and, must require suitable protective equipment technological control, monitoring, etc. (29 CFR 1956.11(b)(2)(vii)).

In addition, the State plan must provide for prompt and effective standards setting actions for protection of employees against new and unforeseen hazards, by such means as authority to promulgate emergency temporary standards (29 CFR 1956.11(b)(2)(v)).

The New York Act (section 27-a(4)(a)) mandates that the State Labor Commissioner (hereinafter referred to as the Commissioner) adopt all safety and health standards promulgated under the Occupational Safety and Health Act of 1970 which are in effect on the effective date of the New York State Act (December 29, 1980) and to incorporate future revisions (New York plan, section I, p. 20). The procedures for adoption of occupational safety and health standards promulgated under the New York Act are contained in the State Administrative Procedure Act (id., Appendix 6, section 202, subdivision 2). The State has provided assurance, contained in its developmental schedule (New York plan, section II) that within three months of initial plan approval it will adopt all Federal OSHA standards promulgated as of July 1, 1983. The State further has assured that it will adopt new, permanent, Federal OSHA standards within six months of Federal promulgation (id., p. 30).

Under the New York plan, the State may adopt alternative or different occupational safety and health standards if a determination is made that an issue is not adequately addressed by OSHA standards as it applies to the safety and health of public employees. In such cases, the State shall propose legislation mandating the development of an alternative standard to protect the safety and health of public employees. Specific procedures for the adoption of alternative standards will be developed by New York and submitted for OSHA approval in accord with the State's developmental schedule (id., section II). Procedures for the adoption of alternative standards will contain criteria for development and consideration of expert technical knowledge in the field covered by any legislation mandating alternative standards. The procedures will contain provisions allowing interested persons to submit information requesting development or promulgation of any standard or the modification or evaluation of existing standards. The procedures also will contain provisions

which give interested persons the opportunity to participate in any hearing for the development, modification or establishment of standards (id. section I, pp. 22-23).

The New York plan also provides for the adoption, within 30 days of receipt of notification from OSHA of Federal promulgation (which is defined as publication in the *Federal Register*), of an emergency temporary standard. In situations where public employees are apparently exposed to unique hazards for which OSHA standards do not exist, if after investigation and review of the facts of the purported situation, the Director, Division of Safety and Health, forms an opinion that the situation as presented is hazardous, he shall make a finding to this effect. A recommendation that proposed legislation be developed and sent to the legislature for consideration shall be forwarded to the Commissioner. The proposed legislation shall normally take the form of a mandate to the Commissioner to develop and adopt standards covering the discovered hazard (id., p. 25).

Based on the foregoing plan provisions, assurances and developmental commitments, OSHA finds the New York plan to have met the statutory and regulatory requirements for initial plan approval with respect to occupational safety and health standards.

#### (4) Variances

A State plan must provide authority for the granting of variances from State standards upon application of a public employer or employers which corresponds to variances authorized under the Federal Act, and for consideration of the views of interested parties, by such means as giving affected employees notice of each application and an opportunity to request and participate in hearings or other appropriate proceedings relating to applications for variances (29 CFR 1956.11(b)(2)(iv)).

The New York Act (section 27-a(8)) includes provisions for the granting of permanent and temporary variances from State standards in terms substantially similar to the variance provisions contained in the Federal Act. The State provisions require employee notification of variance applications as well as employee rights to participate in hearings held on variance applications. Variances may not be granted unless it is established that adequate protection is afforded employees under the terms of the variance. Specific regulations governing the granting of variances will be developed and submitted by New

York in accord with its developmental schedule (New York plan, section II).

Accordingly, OSHA finds that the New York plan effectively provides or will provide opportunity and procedures for variances from its occupational safety and health standards.

#### (5) Enforcement

Section 18(c)(2) of the Federal Act and 29 CFR 1956.10(d)(1) require a State plan to include provisions for enforcement of State standards which is or will be at least as effective in providing safe and healthful employment and places of employment as the Federal program, and to assure that the State's enforcement program for public employees will continue to be at least as effective as the Federal program in the private sector.

(a) *Legal Authority.* The State must require public employer and employee compliance with all applicable standards, rules and orders (29 CFR 1956.10(d)(2)) and must have the legal authority for standards enforcement (section 18(c)(4)) including compulsory process (29 CFR 1956.11(c)(2)(viii)).

Section 27-a(3)(a) of the New York Act requires public employers to comply with the New York Labor Department's occupational safety and health standards; section 27-a(3)(b) requires employees to comply with all standards, rules, regulations and orders applicable to their own actions and conduct.

Sections 38 and 39 of the New York Labor Law (New York plan, section I, appendices 15 and 16, respectively) provide that the Industrial Commissioner may subpoena witnesses and administer oaths, and take affidavits and depositions of witnesses in matters relating to the Labor Law. The State, in accord with Part 65, Subpart D, Prehearing Procedure and Discovery, of the "Rules of Procedure and Practice," of the Industrial Board of Appeals (the independent State agency that acts on petitions for review of the Commissioner of Labor's determinations under the New York Act) may, by order, obtain discovery depositions and interrogatories, and issue subpoenas (id., p. 91.)

(b) *Inspections.* A State plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exists (29 CFR 1956.11(c)(2)(i)).

When no compliance action results from inspection of violations alleged by employee complaints, the State must notify the complainant of its decision not to take compliance action by such means as written notification and



opportunity for informal review (29 CFR 1956.11(c)(2)(iii)).

Section 27-a(5) of the New York Act provides for inspections of covered workplaces including inspections in response to employee complaints. The New York plan (Section I, pp. 60-61) provides that when a determination has been made that a complaint does not warrant an inspection, the complainant shall be notified in writing of the decision. Included in the letter of determination will be a statement explaining the right of the complainant to obtain a review of the determination by submitting a written statement of position to the State and providing the employer with a copy of the statement by certified mail. If the complainant or the employer so request, an informal conference in which they may orally present their views may be held. After considering all views presented the State shall affirm, modify or reverse the determination in question and the complainant and the employer shall be furnished with written notification of the decision and the reason therefor.

(c) *Employee Notice and Participation in Inspection.* In conducting inspections, the State plan must provide an opportunity for employees and their representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1956.11(c)(2)(ii)).

Section 27-a(5)(b) of the New York Act provides the opportunity for an employer and employee representative to accompany an inspector for the purpose of aiding in the inspection. Where there is no authorized employee representative, the Commissioner is required to consult with a reasonable number of employees concerning matters of safety and health in the workplace.

In addition, the State plan must provide that employees be informed of their protections and obligations under the Act by such means as the posting of notices (29 CFR 1956.11(c)(2)(iv)); and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1956.11(c)(2)(vi)).

Section 27-a(9)(a) of the New York Act provides that the Commissioner issue regulations requiring employers to, through posting of notices, training or other appropriate means, keep their employees informed of their protections. A poster, which outlines employee protections and obligations under the Act, has been designed and distributed to public employers. Specific regulations as well as the poster will be submitted

by New York in accord with its developmental schedule (New York plan, section II).

Information on employee exposure to regulated agents (in the public sector) and access to medical and exposure records is provided through State standards, including the Access to Employee Exposure and Medical Records standard, which will be promulgated by New York within three months of plan approval.

(d) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program, including provision for employer sanctions and employee confidentiality (29 CFR 1956.11(c)(2)(v)).

Section 27-a(10)(a) of the New York Act provides that no person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed a complaint or instituted or caused to be instituted any proceeding under or related to this section or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of the employee or others of any right under this section.

Section 27-a(10)(b) of the New York Act provides that an employee who believes that he or she has suffered such discrimination may file a complaint thereon with the Commissioner within 30 days after such discrimination has occurred. The Commissioner shall investigate such complaints as appropriate, and if requested, shall preserve the confidentiality of complainants. If the Commissioner determines that a violation of section 27-a(10)(a) exists, the New York Attorney General shall be requested to bring an action in the State Supreme Court. The State Supreme Court has jurisdiction, for cause shown, to restrain violations and order all appropriate relief, including rehiring or reinstatement of the employee to his or her former position with all back pay. The Commissioner is required to notify the complainant of the determination within 90 days of receiving a discrimination complaint.

Specific regulations in this area will be submitted by New York in accord with its developmental schedule (New York plan, section II).

(e) *Restraint of Imminent Danger.* A State plan is required to provide for the prompt restraint of imminent danger situations (29 CFR 1956.11(c)(2)(vii)).

Section 27-a(7) of the New York Act provides that upon petition of the State, the Supreme Court of the State shall

have jurisdiction to restrain any practices or conditions in any place of public employment where a situation exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through ordinary abatement procedures. Any order issued under this section may require steps to be taken that may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a complete cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. In addition, section 200 of the New York Labor Law authorizes the Commissioner to post a notice to any machinery, equipment or device, or in any area prohibiting use of the machinery, equipment or device or occupancy of the area until the imminence of the hazard is eliminated (New York plan, section I, pp. 56-57).

Whenever and as soon as it is determined that an imminent danger exists in any place of public employment, the affected employees and employers shall be informed and advised that relief is being sought. If relief is not sought within 48 hours of being notified of the condition, any employee who may be injured by this failure or the authorized employee representative may seek injunctive relief. In addition, section 200.3 of the New York Labor Law provides that the State Attorney General may obtain an injunction ordering the cessation and unsafe practices (id. p. 58).

Specific regulations and detailed procedures on the elimination of imminent danger situations will be submitted by New York in accord with its developmental schedule (New York plan, section II).

(f) *Right of Entry; Advance Notice.* A State program is required to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1956.10(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1956.10(f)).

Section 27-a(5)(e) of the New York Act authorizes the Commissioner to



conduct an inspection of any premises occupied by a public employer if there is reason to believe that a violation of this section has occurred. On August 22, 1980, OSHA provided to New York an advisory opinion on the New York Act's right of entry provision which among other concerns, judged that the State's right of entry for inspections appeared to be limited to situations where a complaint had been filed or where the Commissioner has reason to believe a violation may exist. This authority appeared to OSHA to restrict the Commissioner's authority to a greater degree than Federal OSHA's right of entry authority. Consequently, New York included in its plan the State Labor Department Counsel's opinions, dated September 17, 1980 and January 12, 1981 (New York plan, section I, Appendices 8 and 9, respectively), citing additional right of entry authority derived from sections 25 and 31 of the New York Labor Law, which sections do not contain the "reason to believe that a violation . . . has occurred" limitation. Additionally, New York, in order to eliminate any possible confusion about its authority, introduced in the State legislature on February 2, 1984, an amendment to the New York Act to delete the "reason to believe that a violation . . . has occurred" limitation. This amendment was enacted and became effective on April 30, 1984, and was submitted by the State on May 1, 1984 (Ex. 5) for incorporation in the plan and for OSHA approval. Enactment of this amendment satisfactorily resolved OSHA's concerns about New York's right of entry authority.

The New York plan (section I, p. 54) describes its general policy and procedures prohibiting advance notice of inspections and allowing exception thereto, in terms substantially similar to the Federal OSHA program. Specific regulations and procedures on advance notice will be submitted by New York in accord with its developmental schedule (New York plan, section II).

Accordingly, OSHA finds that the New York plan contains right of entry authority and provides appropriate prohibition of advance notice which are equivalent to the Federal OSHA program.

(g) *Citations, Sanctions, and Abatement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations, including proposed abatement requirements, identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards, and for prompt

employer notification of any such sanctions. In lieu of monetary penalties as a sanction, a complex of enforcement tools and rights, including administrative orders and employee right to contest citations (as well as abatement dates), may be demonstrated to be as effective as monetary penalties in achieving compliance in public employment (29 CFR 1956.11(c)(2) (ix) and (x)).

Sections 27-a (6) and (7) of the New York Act describe the authority and general procedures of the Commissioner to promptly notify public employers and employees of violations, and abatement requirements and to compel compliance therewith.

The New York plan (section I, pp. 69-84) provides that when an inspection of an establishment is made the employer and the employee representative will be told of the alleged violations at the closing conference and will be advised of the requirement for abatement. A written citation (Notice of Violation and Order to Comply) will be issued, citing the sections of the law, standards, rules or regulations alleged to be violated, the location of the violation, the abatement period, posting requirements and will also include the employer's and employee's right to contest any or all orders. If orders to comply were issued as a result of an employee-requested inspection or an employee notification of a violation, a copy of such order will be made available to the employee or the employee representative. Section 27-a(6)(d) of the New York Act provides that if the time for compliance with an order has elapsed, and the employer has not contested and has not complied with the provisions of the order, judicial enforcement of the order may be sought by commencing a proceeding pursuant to Article 78 of the Civil Practice Law and Rules; therefore, a court may take action to enforce compliance. Relief sought by the Commissioner normally will take the form of an order of the court to the employer compelling compliance.

Additionally, since New York has determined that a monetary penalty system would not be appropriate because of the nature of public employment, in lieu of the monetary penalty system the State plan incorporated several methods of obtaining compliance, as follows: administrative orders (written orders to comply) issued to a public employer after an inspection and review of a workplace (id., p. 72); judicial enforcement (mandamus actions) (id., p. 73); employee right to contest citations as well as abatement periods if parties

consider issued citation to be erroneous, excessive or insufficient for the violation and the abatement period proposed too long or unreasonably short (id., p. 75); and, encouragement of public agency self-inspection programs (id., p. 76).

Specific regulations and detailed procedures on compliance orders, abatement and sanctions will be submitted by New York in accord with its developmental schedule (id., section II).

(h) *Contested Cases.* A State plan must have authority and procedures for employer contest of violations alleged by the State, penalties/sanctions and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1956.11(c)(2)(xi)).

Section 27-a(6)(c) of the New York Act provides that any employer, or other party (including an employee) affected by a determination of the Commissioner may petition the Industrial Board of Appeals for review of such determination in accordance with section 101 of the New York Labor Law, Part 65, Subpart B and Part 66, Section 66.1 of the "Rules of Procedure and Practice" of the Industrial Board of Appeals permit employees or their representatives to participate in the review process under section 101 of the New York Labor Law. Parties affected by a decision of the Board may appeal by commencing a judicial review proceeding pursuant to Article 78 of the Civil Practices Law and Rules (New York plan, section I, pp. 85-87.)

The period fixed for contesting a determination by the Commissioner is 60 calendar days, which is significantly longer than the 15 working day contest period under the Federal OSHA program. OSHA review of this aspect of the New York plan resulted in concern about the effect of this lengthy contest period on requirements to comply and the abatement period, which concern was conveyed in a February 18, 1981 letter from OSHA to then Director of the State Division of Safety and Health Carl J. Mattei. In a response dated March 5, 1981, Mr. Mattei indicated that a filing of contest does not automatically stay the abatement period or compliance required by the contested order. This issue was discussed at meetings between OSHA and State officials on February 25, 1981 and April 26, 1982. As a result of the April 26, 1982 meeting, OSHA requested that New York provide an explanation of how prompt



abatement could or would be enforced in view of the 60 day contest period. This issue was discussed further at the March 1, 1984 meeting between OSHA and State officials on OSHA's remaining concerns about approval of the plan. In response to this concern, New York submitted to OSHA and incorporated in its plan on March 4, 1984, a State Labor Department Counsel's opinion that when the time for compliance with an order of the Commissioner of Labor has lapsed, the State is authorized to obtain judicial enforcement, even prior to expiration of the 60 day contest period (provided that a contest has not been filed), by commencing a proceeding pursuant to Article 78 of the New York Civil Practice Law. Additionally, New York has provided assurance that should the Department of Labor's interpretation be challenged successfully, the Department would seek appropriate legislative correction. (id., Appendix 23.)

OSHA believes that the Commissioner's authority to obtain judicial enforcement of abatement requirements prior to expiration of the 60 day contest period obviates concern about the length of time permitted for contesting an order.

(i) *Enforcement Conclusion.* In summary, OSHA finds that the enforcement provisions of the New York plan meet the statutory and regulatory requirements for initial State plan approval.

#### (6) Staffing and Resources

Section 18(c)(4) of the Federal Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1956.10(g), one factor which OSHA must consider in considering a plan for initial approval is whether the State has or will have a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan.

The New York plan (section I, pp. 124-127) provides assurances of a fully trained, adequate staff, including 30 safety and 8 health compliance officers for inspections, and 10 safety and 12 health consultants to perform consultation services in the public sector.

The staffing requirements (or "benchmarks") for State plans covering both the private and public sectors are established based on the "fully effective" test established in *AFL-CIO v. Marshall*, 570 F.2d 1030 (D.C. Cir., 1978). There is some question whether this staffing test, and the complicated formula used to derive benchmarks for complete private/public sector plans,

was intended, or is appropriate for application to, the staffing needs of public employee plans. However, the State has given satisfactory assurance (New York plan, section I, p. 130) in its plan that it will meet the compliance staffing benchmarks OSHA will establish for New York's public employee plan in accord with the 1980 benchmarks formula or any subsequent revisions thereto, and the schedule for their attainment, thereby meeting the requirements of 29 CFR 1956.10.

Section 18(c)(5) of the Federal Act requires that the State plan will devote adequate funds to administration and enforcement of its standards (29 CFR 1956.10(h)). New York has funded its public employee occupational safety and health program since 1981 solely utilizing State funds. The State plan will be funded at \$820,373 (State 50% share) for the period from plan approval through the remainder of FY 1984.

Accordingly, OSHA finds that the New York plan has provided for sufficient, qualified personnel and funding for the various activities to be carried out under the plan.

#### (7) Records and Reports

State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (section 18(c)(7) of the Federal Act). Under a public employee State plan, public employers must maintain records and make reports on occupational injuries and illnesses in a manner similar to that required of private employers under the Federal Act and (29 CFR 1956.10(i)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 18(c)(8) of the Federal Act and 29 CFR 1956.10(j)).

New York has provided assurance in its State plan (section I, pp. 115-119) that all jurisdictions covered by the State plan will maintain valid records and make timely reports on occupational injuries and illnesses as required for private employers under Federal OSHA. Specific regulations on this aspect of the State plan will be submitted by New York in accord with its developmental schedule (id., section II).

New York has also provided assurance in its plan (section I, p. 20) that it will continue its participation in the Bureau of Labor Statistics Annual Survey of Injuries and Illnesses (for the private sector under a contract with the Bureau of Labor Statistics) and will extend its statistical survey to the public sector under its approved plan. The New

York plan also contains assurances (id., p. 123) that it will provide reports to OSHA in the desired form and participate in OSHA's Integrated Management Information System.

For the foregoing reasons, OSHA finds that the New York plan has met the requirements of section 18(c) (7) and (8) of the Federal Act on employer and State reports to the Secretary.

#### (8) Voluntary Compliance Program

A State plan must undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees (29 CFR 1956.11(c)(2)(xii)).

The New York plan (section I, pp. 102-105) provides that the State Labor Department will include voluntary compliance as an essential component of its program. Training will be provided to public employers and employees; seminars will be conducted to familiarize affected individuals with OSHA standards and requirements, and safe work practices; an on-site consultation program in the public sector parallel to New York State's existing private sector on-site consultation program (under section 7(c)(1) of the Federal Act) will be established. The public employee consultation program will have both safety and health consultants available to employers who request such service. All State agencies and political subdivisions will also be encouraged to develop and maintain self-inspection programs.

Based on the foregoing, OSHA finds that the New York plan provides for the establishment and administration of an effective voluntary compliance program.

#### Decision

OSHA, after carefully reviewing the New York State plan for the development and enforcement of State standards applicable to State and local government employees and the record developed during the above described proceedings, has determined that the requirements and criteria for initial approval of a developmental plan have been met. The plan is hereby approved as a developmental plan under section 18 of the Act and 29 CFR Part 1956. This decision incorporates the requirements of the Act and of regulations applicable to State plans generally.

#### Regulatory Flexibility Act Analysis

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that this initial approval will not have a significant



adverse economic impact on a substantial number of small entities. By its own terms, the New York State plan will have no effect on private sector employment, but rather, is limited to the State and its political subdivisions. Moreover, the New York legislation has been in effect since 1980, public sector employers and employees have been subject to its terms since that time, and accordingly no new obligations would be placed on public sector employers and employees as a result of Federal approval of the plan. A copy of this certification has been forwarded to the Chief Counsel for Advocacy, Small Business Administration.

#### List of Subjects in 29 CFR Part 1956

Intergovernmental relations, Law enforcement, Occupational Safety and Health.

#### Effective Date

OSHA's decision granting initial Federal approval to the New York State plan for public sector employees is effective upon the date of publication of the present **Federal Register** notice.

The safety and health program described in the plan has been in effect for several years and no immediate modifications of the program are required by today's decision. Notice of proposed initial approval of the plan was published both in the **Federal Register** and in several newspapers in the State with requests for comment. No comments opposing initial approval of the plan were received, and OSHA believes that no party is adversely affected by initial approval of the plan. OSHA therefore finds, pursuant to section 553(d) of the Administrative Procedures Act, that a delay of the effective date of initial approval of the plan is unnecessary.

Signed at Washington, D.C. this 29th day of May, 1984.

Patrick R. Tyson,

Deputy Assistant Secretary of Labor.

Accordingly, Part 1956 is hereby amended by adding thereto a new Subpart F as follows:

#### Subpart F—New York

##### Sec.

- 1956.50 Description of the plan as initially approved.
- 1956.51 Developmental Schedule.
- 1956.52 Completion of developmental steps and certification. [Reserved]
- 1956.53 Determination of operational effectiveness. [Reserved]
- 1956.54 Location of plan for inspection and copying.

Authority: Secs. 8(g), 18; 84 Stat. 1600, 1608; (29 U.S.C. 657(g), 667); 29 CFR Part 1956. Secretary of Labor's Order 9-83 (48 FR 35736).

#### Subpart F—New York

##### § 1956.50 Description of the plan as initially approved.

(a) *Authority and scope.* The New York State Plan for Public Employee Occupational Safety and Health received initial OSHA approval on June 1, 1984. The plan designates the New York Department of Labor as the State agency responsible for administering the plan throughout the State. The plan includes legislation, the New York Act (Public Employees Safety and Health Act, Chapter 729 of the Laws of 1980), enacted in 1980, and amended on April 30, 1984, to clarify the State's right of entry for inspection authority. Under this legislation, the Industrial Commissioner (now the Commissioner of Labor), has full authority to enforce and administer all laws and rules protecting the safety and health of all employees of the State and its political subdivisions. In response to OSHA concern that language in section 27-a(2) of the New York Act, regarding the Commissioner of Education's authority with respect to school buildings, raised questions about the coverage under the plan of public school employees, New York submitted amendments to its plan consisting of Counsel's opinion and assurance that public school employees are fully covered under the terms of the New York Act. In a March 4, 1984 letter from Lee O. Smith, Deputy Commissioner of Labor for Legal Affairs, New York indicated that the Commissioner of Education's authority applies only to ensuring the safety and health of pupils, and that the Commissioner of Labor has exclusive authority to enforce occupational safety and health standards covering public employees in school buildings. Furthermore, New York has provided assurance that should the Department of Labor's interpretation on coverage of public school employees be challenged successfully, appropriate legislative correction would be sought.

(b) *Standards.* The New York plan provides for the adoption of all Federal OSHA standards promulgated as of July 31, 1983, and for the incorporation of any subsequent revisions or additions thereto in a timely manner, including in response to Federal OSHA emergency temporary standards. The procedure for adoption of Federal OSHA standards calls for publication of the Commissioner of Labor's intent to adopt a standard in the *New York State Register* 30 days prior to such adoption.

Subsequent to adoption and upon filing of the standard with the Secretary of State, a notice of final action will be published as soon as is practicable in the *State Register*. The plan also provides for the adoption of alternative or different occupational safety and health standards if a determination is made by the State that an issue is not properly addressed by OSHA standards and is relevant to the safety and health of public employees. In such cases, the State shall propose legislation mandating the development of an alternative standard to protect the safety and health of public employees. The procedures for adoption of alternative standards will contain criteria for development and consideration of expert technical knowledge in the field to be addressed by the standard, and provisions allowing interested persons to submit information requesting development or promulgation of any standard and to participate in any hearing for the development, modification or establishment of standards.

(c) *Variances.* The plan includes provisions for the granting of permanent and temporary variances from State standards in terms substantially similar to the variance provisions contained in the Federal Act. The State provisions require employee notification of variance applications as well as employee rights to participate in hearings held on variance applications. Variances may not be granted unless it is established that adequate protection is afforded employees under the terms of the variance.

(d) *Employee notice and discrimination protection.* The plan provides for notification to employees of their protections and obligations under the plan by such means as a State poster, and required posting of notices of violations. The plan also provides for protection of employees against discharge or discrimination resulting from exercise of their rights under the State's Act in terms essentially identical to section 11(c) of the Federal Act.

(e) *Inspections and enforcement.* The plan provides for inspection of covered workplaces including inspections in response to employee complaints. If a determination is made that an employee complaint does not warrant an inspection, the complainant shall be notified, in writing, of such determination and afforded an opportunity to seek informal review of the determination. The plan also provides the opportunity for employer and employee representatives to accompany the inspector during an



inspection for the purpose of aiding in the inspection. The plan also provides for right of entry for inspection and prohibition of advance notice of inspection. In lieu of monetary penalties for violations, the plan establishes a scheme of enforcement for compelling compliance under which public employers are issued notices of violation and orders to comply, for any violation of standards and orders. Such notices will fix a reasonable time for compliance. The Commissioner of Labor may seek judicial enforcement (mandamus actions) of orders to comply by commencing a proceeding pursuant to Article 78 of the New York Civil Practice Law and Rules against public employers who fail to abide by the requirements of the order.

(f) *Review procedures.* Under the plan, employers, employees and other affected parties may seek informal review with the Department of Labor of a notice of violation, including the reasonableness of the abatement period, and/or may seek formal administrative review with the Industrial Board of Appeals, the independent State agency authorized by section 27-a(6)(c) of the New York Act to consider petitions from affected parties for review of the Commissioner of Labor's determinations pursuant to the New York Act. The "Rules of Practice and Procedure" of the Industrial Board of Appeals also permit public employees or their representatives to participate in the review process when a public employer contests a notice. Judicial review of the decision of the Industrial Board of Appeals may be sought pursuant to Article 78 of the New York Civil Practice Law and Rules. The period fixed in the plan for contesting notices of violation is 60 calendar days, which is significantly longer than the 15 working day period allowed under the Federal OSHA program. However, New York has provided assurance, by Counsel's opinion of March 4, 1984, that it has the authority under Article 78 of the New York Civil Practice Law and Rules to obtain judicial enforcement of an uncontested order to comply upon expiration of the period stipulated for abatement, regardless of whether the 60 day contest period has expired or not. New York has also assured that should the State Labor Department's interpretation be challenged successfully appropriate legislative correction would be sought.

(g) *Staffing and Resources.* The plan provides assurances of a fully trained,

adequate staff, including 30 safety and health compliance officers for enforcement inspections and 10 safety and 12 health consultants to perform consultation services in the public sector. The State has also given satisfactory assurances of adequate funding to support the plan. In addition, the plan assures that New York will meet the compliance staffing benchmarks established pursuant to the terms of the court order in *AFL-CIO v. Marshall* (CA 74-406).

(h) *Records and reports.* The plan provides that public employers in New York will maintain appropriate records and make timely reports on occupational injuries and illnesses in a manner substantially identical to that required for private sector employers under Federal OSHA. New York has assured that it will continue its participation in the Bureau of Labor Statistics Annual Survey of Injuries and Illnesses and will include the public sector under its plan after approval. The plan also contains assurances that the Commissioner of Labor will provide reports to OSHA in such form as the Assistant Secretary may require, and that New York will participate in OSHA's Integrated Management Information System.

(i) *Voluntary compliance programs.* The plan provides that training will be provided to public employers and employees; seminars will be conducted to familiarize affected individuals with OSHA standards and requirements (as adopted by New York), and safe work practices; an on-site consultation program in the public sector will be established to provide services to public employers who so desire; and, all State agencies and political subdivisions will be encouraged to develop and maintain self-inspection programs as an adjunct to but not substitute for the Commissioner of Labor's enforcement inspections.

#### § 1956.51 Developmental schedule.

The New York plan is developmental. The following is a schedule of major developmental steps as provided in the plan:

(a) Adopt all OSHA standards promulgated as of July 1, 1983 (within three months after plan approval).

(b) Promulgate regulations for inspections, citations and abatement, equivalent to 29 CFR Part 1903 (within three months after plan approval).

(c) Submit State poster (within six months after plan approval).

(d) Extend BLS Survey of Injuries and Illnesses to State and local government (within one year after plan approval).

(e) Promulgate regulations for granting variances, equivalent to 29 CFR Part 1905 (within one year after plan approval).

(f) Promulgate regulations for injury/illness recordkeeping, equivalent to 29 CFR Part 1904 (within two years after plan approval).

(g) Develop employee non-discrimination procedures (within two years after plan approval).

(h) Promulgate procedures for review of contested cases (within two years after plan approval).

(i) Promulgate regulations for development of alternative State standards, equivalent to 29 CFR Part 1911 (within three years after plan approval).

(j) Develop Field Operations Manual (within three years after plan approval).

(k) Develop Industrial Hygiene Manual (within three years after plan approval).

(l) Promulgate regulations and implement program for on-site consultation (within three years after plan approval).

(m) Fully implement public employer/employee training and education program (within three years after plan approval).

#### § 1956.52 Completion of developmental steps and Certification. [Reserved]

#### § 1956.53 Determination of operational effectiveness. [Reserved]

#### § 1956.54 Location of plan for inspection and copying.

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue, NW., Room N-3476, Washington, D.C. 20210; Office of the Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza) Room 3445, New York, New York 10036; State of New York Department of Labor, State Office Building Campus, Building 12, Room 579, Albany, New York 12226; Division of Occupational Safety and Health, State of New York Department of Labor, Room 6994, 2 World Trade Center, New York, New York 10047.

[FR Doc. 84-14674 Filed 5-31-84; 8:45 am]

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# Federal Register

Friday  
June 1, 1984

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## Part VI

### Department of Health and Human Services

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#### Food and Drug Administration

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#### 21 CFR Part 630

#### Additional Standards for Viral Vaccines; Poliovirus Vaccine, Live, Oral; Final Rule



**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 630****[Docket No. 84N-0178]****Additional Standards for Viral Vaccines; Poliovirus Vaccine, Live, Oral****AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the regulation governing testing of Poliovirus Vaccine, Live, Oral used in clinical trials performed for determining the antigenicity of the vaccine. The amendment eliminates the provision that the five lots of poliovirus vaccine used in clinical trials be manufactured as consecutive lots and that the five lots be shown to have satisfactory results in all prescribed tests. FDA is amending the regulation because of questions concerning the proper interpretation of clinical data used in the early 1960's as part of the basis for licensure of the sole Poliovirus Vaccine, Live, Oral, Trivalent product that is currently licensed for sale in the United States. The amendment also makes the requirements concerning clinical studies more flexible and consistent with current scientific knowledge. FDA will, however, continue to have authority to ensure that poliovirus vaccine used in clinical trials shows satisfactory results in all tests necessary to assure the safety, purity, and potency of the vaccine.

**DATES:** Effective June 1, 1984; comments by July 31, 1984.

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

**FOR FURTHER INFORMATION CONTACT:** Steven F. Falter, Center for Drugs and Biologics (formerly National Center for Drugs and Biologics) (HFN-368), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306.

**SUPPLEMENTARY INFORMATION:****I. Background History of Poliomyelitis Vaccine**

Three monovalent forms of Poliovirus Vaccine, Live, Oral were first licensed for use in the United States in August 1961. A vaccine consisting of each of the monovalent forms, called Poliovirus Vaccine, Live, Oral, Trivalent (hereafter

"oral poliovirus vaccine"), was licensed initially in June 1963.

Since introduction of the oral poliovirus vaccine, it has largely replaced the killed-virus, injectable vaccine, often called the "Salk Vaccine," as the vaccine of choice for the immunization of children. The selection of oral poliovirus vaccine as the principal polio vaccine in the United States has been made by various public health organizations including the Committee on Infectious Diseases of the American Academy of Pediatrics (Ref. 1), the Immunization Practices Advisory Committee (Ref. 2), and a special expert committee of the Institute of Medicine, National Academy of Sciences (Ref. 3). All 50 States require that children be immunized with oral poliovirus vaccine as a prerequisite to entering elementary school. Over 95 percent of the children entering school in the United States have completed primary immunization with oral poliovirus vaccine. Currently only one manufacturer holds a U.S. license for the manufacturer and sale of oral poliovirus vaccine.

The initial results of immunization with killed-virus, injectable poliovirus vaccine and subsequent results with oral poliovirus vaccine have been dramatic. In 1954, the last year before general immunization programs against polio began, over 18,000 cases of paralytic poliomyelitis were reported in the United States; in 1983, only 8 cases of paralytic poliomyelitis were reported (Ref. 4). Thus, concerted immunization programs, using an oral poliovirus vaccine which has been consistently safe and nearly 100 percent effective, have resulted in virtual elimination of paralytic poliomyelitis in the United States. However, several minor outbreaks of poliomyelitis, occurring in 1970, 1972, and 1979 in unimmunized populations in the United States and abroad, indicate the importance of maintaining the polio immunization programs in the United States.

**II. Amendments to 21 CFR 630.11**

In addition to published general standards for all biological products and requirements contained in the license issued to the manufacturer, FDA's regulations contain specific standards for the safety, purity, and potency of Poliovirus Vaccine, Live, Oral (both monovalent and trivalent). These additional standards are set forth in 21 CFR 630.10 through 630.17. The additional standards for oral poliovirus vaccine originally were issued on March 25, 1961, and were subsequently recodified in Title 21 of the Code of Federal Regulations.

Section 630.11 of the additional standards contains requirements concerning clinical trials for determining the antigenicity of oral poliovirus vaccine that must be performed to qualify the vaccine for licensure. The antigenicity of a vaccine is its ability to induce the production of specific, protective antibodies in human recipients. These clinical trials are designed to demonstrate the effectiveness of the oral poliovirus vaccine. Included in § 630.11 is a requirement that the clinical trials be conducted using five consecutive lots of poliovirus vaccine, all manufactured by the same methods, and each of which has shown satisfactory results in all prescribed tests. FDA has determined that two amendments to this requirement should be made.

**A. The "Consecutive Manufacture" Requirement**

FDA is amending § 630.11 by removing the word "consecutive" so that the five lots of oral poliovirus vaccine used in clinical trials need not be consecutively manufactured. This "consecutive manufacture" requirement is contained in a number of additional standards for vaccines, and is intended generally to assure that the manufacturer can control the manufacturing process. The agency has concluded, however, that this requirement is unnecessary to assure the safety, purity, and potency of the oral poliovirus vaccine used in clinical trials and could be the cause of a meaningless waste of effort and vaccine by a manufacturer conducting clinical studies in the United States or abroad.

The manufacture of a viral vaccine is a complex operation involving living organisms. Therefore, it is inevitable that occasionally an attempt to manufacture a safe, pure, and potent oral poliovirus vaccine will be unsuccessful despite the use of good manufacturing practices. Under current § 630.11, a failure to manufacture successfully one lot could result in the consecutive sequence of lot manufacture being broken and the use of the remaining lots in a clinical trial would be prohibited. Thus, the lots of vaccine that were properly manufactured would be wasted and any clinical studies already under way would not be acceptable to FDA because they would not comply with § 630.11. There is, however, no scientific justification for rejecting the use of such lots of vaccine in clinical studies or the results of such studies. FDA has therefore concluded that the requirement that the five lots



used in clinical trials be of consecutive manufacture is unnecessarily restrictive.

The agency believes that any five lots of poliovirus vaccine manufactured using the same methods, regardless of the sequence of manufacture, are appropriate for use in clinical trials to demonstrate antigenicity. Indeed, there may be some scientific advantages to conducting clinical trials using oral poliovirus vaccine that has been manufactured over a long period of time. FDA believes that clinical trials conducted using vaccine manufactured over several years, rather than several months, may provide a better indication of the manufacturer's ability to produce consistently a fully safe and antigenic vaccine.

The agency emphasizes that this amendment will not affect the regulatory requirements for the consistency of manufacture of licensed oral poliovirus vaccine for commercial use. FDA will continue to impose the requirements in § 630.17(b) for the release of individual lots of vaccine. These requirements include the requirement that each lot be one of five consecutive lots that have been manufactured satisfactorily. In addition, FDA inspections of manufacturing facilities will assure the consistency of manufacture of licensed oral poliovirus vaccine.

In addition to assuring the continued safety, purity, and potency of oral poliovirus vaccine used in clinical trials, the amendment will provide manufacturers greater flexibility in scheduling clinical trials. The opportunity to conduct clinical trials of a vaccine is often limited by such factors as difficulty in identifying a suitable, unimmunized test population and a shortage of qualified clinical scientists to conduct the trials. By removing the consecutive lot requirement, the sponsoring manufacturer will have greater flexibility in selecting the appropriate times and opportunities for conducting the required clinical trials.

The agency further notes that, since the agency first issued § 630.11, a number of clinical studies have been performed in other countries to demonstrate the antigenicity of various oral poliovirus vaccines. Some of the studies were performed to qualify the vaccine for approval in the host nation. Other clinical studies have been performed on approved oral poliovirus vaccines to assure that the vaccine continues to display adequate antigenicity in humans. FDA has determined that many of these clinical studies provide an appropriate demonstration of the antigenicity of the vaccine. Therefore, FDA should be able to rely on the data from these clinical

trials as part of the basis for approving U.S. licensure of the manufacturer's oral poliovirus vaccine. However, because these studies generally were not performed on five consecutive lots of vaccine, the studies would not meet the requirements of § 630.11. By removing the "consecutive manufacture" requirement, in addition to the amendment discussed later in this preamble, FDA can accept appropriate clinical studies performed in other countries as part of the basis of approval for U.S. licensure.

#### *B. The Testing Requirement*

FDA is also amending § 630.11 by removing the provision that the five lots of oral poliovirus vaccine used in the required clinical trials each show satisfactory results in all prescribed tests.

This change is prompted by questions concerning whether all lots of poliovirus vaccine used in clinical trials in 1961 and 1962 as a basis for the currently licensed oral poliovirus vaccine showed satisfactory results in several tests. This change will also facilitate FDA's ability to rely on oral poliovirus vaccine clinical studies performed in other nations.

In tort litigation involving the Federal government and private parties, questions have been raised concerning whether some of the lots of vaccine used in the 1961 and 1962 clinical trials met the test standard for neurovirulence prescribed in § 630.16(b)(1). The purpose of the neurovirulence tests, which is performed in monkeys, is to assure that the live virus used in the oral poliovirus vaccine is properly attenuated (nonvirulent). In 1962, the reviewing scientists in the Public Health Service, the responsible regulating agency at that time, judged that the test results demonstrated that the poliovirus vaccine used in clinical trials for antigenicity was of acceptably low neurovirulence.

FDA has reviewed the data and has concluded that, although there may be a question as to whether the results of all of the neurovirulence tests met the standard in the regulations, there is no doubt that the oral poliovirus vaccine used in the clinical trials involving 195,000 subjects was of acceptably low neurovirulence. FDA's conclusion was confirmed by an FDA advisory committee, the Panel on Review of Viral Vaccines and Rickettsial Vaccines, which, as part of its general review of the safety and effectiveness of viral vaccines, reexamined the data supporting the licensure of the currently available oral poliovirus vaccine. As stated in its final report published in the

Federal Register of April 15, 1980 (45 FR 25652), the panel found that the data met the requirements of § 630.11 and found the vaccine to be fully safe and effective.

Nevertheless, for the oral poliovirus vaccine used in the initial clinical trials, the results of the test for monkey neurovirulence are open to interpretation and might be considered not to meet the specific terms of § 630.16(b)(1). Continued uncertainty about whether technical conformity with this requirement was achieved when the license was first issued could unjustifiably diminish public confidence in the proven safety of the vaccine and the vital public health program to which it is indispensable. Because the vaccine used in the initial clinical trials was not neurovirulent in the subjects tested and because the oral poliovirus vaccine currently in use in the United States is safe and effective, FDA has concluded that it is in the best interest of the public health to amend § 630.11 to eliminate the unnecessary requirement that the vaccine used in clinical trials show satisfactory results in all tests applicable to lots used in clinical trials, and thus avert any possible loss of confidence in the polio immunization program.

The agency emphasizes that there is no basis for concern about the actual safety of oral poliovirus vaccine. The best indication of the low neurovirulence of licensed oral poliovirus vaccine is the history of its use. It is characteristic of any live oral poliovirus vaccine that, in rare instances, the vaccine recipient or a close contact of the vaccine recipient will contract paralytic poliomyelitis. During the clinical trials conducted prior to licensure, no cases of paralytic poliomyelitis associated with the vaccine were reported. For many years, the Centers for Disease Control (CDC) of the Public Health Service have closely monitored the incidence of poliomyelitis in the United States, including the incidence of poliomyelitis in the United States, including the incidence of vaccine-associated paralytic poliomyelitis. In the 12-year period 1969 through 1980, approximately 290 million doses of oral poliovirus vaccine were distributed and 92 cases of paralytic poliomyelitis associated with the vaccine were reported to CDC (1 case per 3.3 million doses distributed). In 1983, a total of eight cases of paralytic poliomyelitis were reported to CDC. In 1982, the World Health Organization (WHO) Consultative Group on Live Poliomyelitis Vaccine (Sabin Strains) published a 10-year study comparing the



incidence of vaccine-associated poliomyelitis among 13 nations (Ref. 5). The study shows that the safety (neurovirulence) of the vaccine used in the United States compares favorably with that of the oral poliovirus vaccines used by other nations in the study. Accordingly, FDA finds that the low neurovirulence of the currently licensed oral poliovirus vaccine has been demonstrated thoroughly throughout its history of manufacture.

The agency further emphasizes that this amendment will not compromise the safety, purity, or potency of oral poliovirus vaccine used in any future clinical trials. The agency has authority under the licensing provisions of the Public Health Service Act (42 U.S.C. 262(a)) to ensure the safety, purity, and potency of the poliovirus vaccine used in clinical trials. Section 601.2 of FDA's regulations (21 CFR 601.2) requires that, to obtain a license, manufacturers submit "data derived from nonclinical laboratory and clinical studies which demonstrate that the manufactured product meets prescribed standards of safety, purity, and potency \* \* \*." In addition, under the applicable requirements of 21 CFR Part 312 of FDA's investigational new drug regulations, FDA will continue to assure that an investigational oral poliovirus vaccine has been shown by appropriate methods to be of acceptably low neurovirulence and otherwise safe for administration to humans before permitting its use in a clinical trial in the United States.

FDA believes that eliminating the requirement that the oral poliovirus vaccine used in clinical trials show satisfactory results in all prescribed tests will also facilitate FDA's ability to rely on clinical trials performed in foreign countries in support of an application for a U.S. license. These clinical trials are usually performed in accordance with the applicable regulations of the foreign country in which the study is conducted and the WHO's requirements for oral poliovirus vaccine (Ref. 6). The regulations sometimes differ in certain technical respects from FDA's regulations, and the revision of FDA's regulations will enable FDA to accept clinical trials that have been performed using a vaccine that has been shown to be of adequate safety, but has not been subjected to the precise battery of tests required by FDA for clinical trials. Such clinical trials would also be required to meet FDA's regulations concerning foreign clinical studies of investigational new drugs (§ 312.20; see also proposed § 312.120 published as part of a proposal to revise

Part 312 in the *Federal Register* of June 9, 1983 (48 FR 26720)).

FDA again emphasizes that this amendment will not change the requirements that apply to the manufacture of licensed oral poliovirus vaccine. FDA will continue to require that each lot of licensed oral poliovirus vaccine meet the lot release criteria of § 630.17(b), including the requirements that each monovalent pool contained in the vaccine be one of five consecutive pools meeting the criteria of neurovirulence for monkeys in § 630.16(b)(1) and for in vitro markers prescribed in § 630.16(b)(3).

For many years, because of careful selection by the vaccine manufacturers of virus seed strains for use in the vaccine, licensed oral poliovirus vaccine has demonstrated a markedly low neurovirulence and, if properly manufactured, can readily meet the requirements of § 630.16(b)(1). Continuation of the current lot release requirements will assure consistency of manufacture of the licensed product.

At a later time, FDA intends to publish a proposed rule to revise the additional standards for other viral vaccines, consistent with the amendments made to § 630.11 in this final rule. The additional standards for Measles, Mumps, Rubella, and Measles-Smallpox Vaccines contained in §§ 630.31, 630.51, 630.61, and 630.81, respectively, include provisions similar to those in § 630.11. FDA believes it is appropriate to amend those sections consistent with the amendments made to § 630.11. However, FDA finds that these amendments are not immediately necessary for the protection of the public health and, in order to expedite the revisions for oral poliovirus vaccine, will initiate procedures for revising the additional standards for the other viral vaccines at a later date.

### III. References

The following information has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. American Academy of Pediatrics, "Report of the Committee on Infectious Diseases," 19th Ed., Evanston, IL, 1982.
2. "Recommendation of the Immunization Practices Advisory Committee (ACIP)—Poliomyelitis Prevention," *Morbidity and Mortality Weekly Report*, 31:12-34, 1982.
3. Nightingale, E. L., "Recommendations for a National Policy on Poliomyelitis Vaccination," *The New England Journal of Medicine*, 297:249-253, 1977.
4. Centers for Disease Control, "Corrected Cumulative 1983 Totals for Tables I and

II," *Morbidity and Mortality Weekly Report*, 33:63, 1984.

5. WHO Consultative Group, "The Relation Between Acute Persisting Spinal Paralysis and Poliomyelitis Vaccine—Results of a Ten-Year Enquiry," *Bulletin of the World Health Organization*, 60(2):231-242, 1982.
6. WHO Expert Committee on Biological Standardization, "Requirements for Poliomyelitis Vaccine (Oral): Thirty-Third Report," Technical Report Series 687, pp. 107-174, 1983.

### IV. Economic, Environmental, and Procedural Considerations

The agency has determined pursuant to 21 CFR 25.24(d)(10) [proposed December 11, 1979; 44 FR 71742] that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). The amendment removes unnecessary restrictions from the regulations and makes the regulations more consistent with current scientific knowledge. Therefore, the agency concludes that this final rule is not a major rule as defined in Executive Order 12291. One large manufacturer is affected by the regulation. Accordingly, the agency certifies that even if this rule were subject to the Regulatory Flexibility Act because it was preceded by a proposed rule, it will not have a significant economic impact on a substantial number of small entities, as these terms are used in the Regulatory Flexibility Act. This rule does not impose any paperwork requirements.

Under the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), FDA finds that notice, public procedure, and delayed effective date for the amendment of § 630.11 are contrary to the public interest. Section 553(b)(B) provides that the notice and comment provisions in section 553(b) are not required to be followed where the agency "for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Section 553(d) allows an agency to make a rule effective less than 30 days after publication if it relieves a



restriction or the agency otherwise finds good cause for the earlier effective date.

FDA believes that delaying the change made by the amendment to § 630.11 would be contrary to the public interest. As discussed above, questions have been raised in litigation about whether the vaccine used in the clinical trials conducted in 1962 for the approval of the sole license for oral poliovirus vaccine met all of the technical requirements in § 630.11. FDA believes it is in the interest of the public health to make the amendment effective as soon as possible to make certain that questions concerning whether the vaccine lots used in the original clinical trials technically conformed with the requirements of the additional standards in 21 CFR 630.10 to 630.17 do not cast doubt on the safety of the vaccine and on the continued viability of the polio immunization program. As noted above, oral poliovirus vaccine is the vaccine of choice in the United States. As a result of the use of the vaccine, cases of paralytic poliomyelitis have been reduced from 18,000 in 1953 to only 8 cases in 1983. Moreover, the several minor outbreaks of poliomyelitis arising in 1970, 1972, and 1979 in unimmunized populations in the United States and abroad make clear that the immunization program is essential to the protection of the public health. FDA emphasizes that the lots used in the clinical trials submitted in support of the license were properly judged to be safe for purposes of the initial licensure decision and that, in view of the technical nature of any possible deficiencies in the lots, FDA does not believe that action to revoke the license under § 601.5 is warranted. However, although the continued availability of the vaccine may not be in immediate

jeopardy, any possible doubts, whether or not well founded, about the safety of the vaccine cannot be allowed to exist in view of the need to assure that the vaccine will continue to be used to the maximum extent consistent with the nation's public health objectives. Accordingly, because of the importance of the vaccine and of maintaining public confidence in the immunization program that depends on it, good cause exists to issue these amendments as a final rule effective immediately. The fact that the amendment relieves a restriction also justifies making the rule effective immediately.

#### List of Subjects in 21 CFR Part 630

##### Biologics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), and the Administrative Procedure Act (secs. 4, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 701-706)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 630 is amended by revising § 630.11, to read as follows:

#### PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINE

##### § 630.11 Clinical trials to qualify for license.

To qualify for license, the antigenicity of the vaccine shall have been determined by clinical trials of adequate statistical design conducted in compliance with Part 56 of this chapter unless exempted under § 56.104 or

granted a waiver under § 56.105, and with Part 50 of this chapter. Such clinical trials shall be conducted with five lots of poliovirus vaccine which have been manufactured by the same methods. Type specific neutralizing antibody shall be induced in 80 percent or more of susceptibles when administered orally as a single dose, or in 90 percent or more of susceptibles when administered orally after a series of doses. A separate clinical trial shall have been conducted for each monovalent and each polyvalent vaccine for which a license application is made.

Interested persons may, on or before July 31, 1984, submit to the Dockets Management Branch (address above) written comments regarding this rulemaking. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Such comments will be considered in determining whether the amendment made in this document should be modified. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

*Effective date.* This regulation is effective June 1, 1984.

(Secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); secs. 4, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 701-706))

Dated: May 29, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

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